

RETURN

To an Address of the House of Lords, dated 10th February 1863.

FOR

COPIES or EXTRACTS of CORRESPONDENCE between HER MAJESTY'S GOVERNMENT
and the GOVERNOR GENERAL of CANADA in reference to the MILITIA BILLS
proposed and passed in the Canadian Parliament.

(The Earl of Carnarvon.)

Ordered to be printed 17th February 1863.

SCHEDULE.

1	Governor General Viscount Monck to His Grace the Duke of Newcastle, K.G.	30 May 1862 (No. 92.) -	Page. 3
2	Governor-General Viscount Monck to His Grace the Duke of Newcastle, K.G. (Extract)	10 June 1862 (No. 96.) -	3
3	His Grace the Duke of Newcastle, K.G., to Governor-General Viscount Monck.	25 June 1862 (No. 133.) -	39
4	His Grace the Duke of Newcastle, K.G., to Governor-General Viscount Monck.	21 August 1862 (No. 163.)	40
5	Governor-General Viscount Monck to His Grace the Duke of Newcastle, K.G.	30 October 1862 (No. 147.)	42
6	His Grace the Duke of Newcastle, K.G., to Governor-General Viscount Monck.	20 December 1862 (No. 197.)	51

COPIES OF EXTRACTS OF CORRESPONDENCE between HER MAJESTY'S GOVERNMENT and
the GOVERNOR GENERAL of CANADA in reference to the MILITIA BILLS pro-
posed and passed in the Canadian Parliament.

No. 1.

No. 1.

COPY of a DESPATCH from Governor-General Viscount MONCK to his Grace the
Duke of NEWCASTLE, K.G.

(No. 92.)

Quebec, May 30, 1862.

(Received 12 June 1862.)

MY LORD DUKE,

(Answered, No. 133, 25 June 1862, page 39.)

I HAVE the honour to inform your Grace that in the Legislative Assembly, on
Tuesday the 20th May, the Honourable Attorney General Cartier moved:—"That the
" Bill (No. 76) respecting the militia be now read a second time;" and the question
being put on the said motion, the house divided, and it was negatived by a majority of
seven, the members being—yeas, 54; nays, 61.

In consequence of this vote, Mr. Cartier, on the part of himself and his colleagues,
tendered his resignation on the following day.

I accepted it, and sent for the Honourable John Sandfield McDonald, member for
Cornwall, to whom I entrusted the formation of a new administration.

On Friday the 23d, Mr. McDonald submitted to me the names of the gentlemen
whom he proposed as members of the new Executive Council.

I approved of them, and accordingly made the following appointments, viz.:—

The Honourable John Sandfield McDonald to be Attorney-General for Upper
Canada.

The Honourable Louis Victor Sicotte Attorney-General for Lower Canada.

The Honourable James Morris to be Receiver-General.

The Honourable Antoine Aimé Dorion, Provincial Secretary.

The Honourable Michael Hamilton Foley, Postmaster-General.

The Honourable Wm. McDougall, Commissioner of Crown Lands.

The Honourable Wm. Pearce Howland, Minister of Finance.

The Honourable Ulric Joseph Tessier, Commissioner of Public Works.

The Honourable Thomas D'Arcy McGee, President of the Executive Council.

The Honourable Francois Evanturel, Minister of Agriculture and Statistics.

The Honourable Adam Wilson, Solicitor-General for Upper Canada.

The Honourable John Caldwell Abbott, Solicitor-General for Lower Canada.

These gentlemen were also appointed members of the Executive Council.

Copies of the commissions will be forwarded to your Grace by the following mail.

I have, &c.

His Grace the Duke of Newcastle, K.G.

(Signed) MONCK.

&c. &c. &c.

No. 2.

No. 2.

EXTRACT of a DESPATCH from Governor-General Viscount MONCK to His Grace the
Duke of NEWCASTLE, K.G., dated Quebec, June 10, 1862.

(No. 96.)

(Received 26 June 1862.)

I HAVE the honour to acknowledge your Grace's Despatch, No. 119, of
May 22d, covering a letter of Lord de Grey, dated May 10th, in which his Lordship

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desired

desired to be informed whether the carbines and saddlery provided for the Cavalry Militia of Canada should be forwarded to that country.

I might have answered this question by the last mail, but I preferred postponing my reply until after the termination of the session of the Provincial Parliament in order that I might, in laying before your Grace my views on the whole question of the supply of military stores to this colony, have the advantage of knowing the changes which the legislature of Canada might have made in the Militia Law of the Province.

Encl. 1.

Encl. 2.

I have the honour to enclose for your Grace's information a copy of the Act for that purpose, to which I yesterday signified Her Majesty's assent. I also enclose a copy of the Act, of which this Act is an amendment.

Your Grace will observe that substantially the amendments consist of provisions,

- 1st. For securing more correct muster rolls of the sedentary militia, (the whole male population of the Province between 18 and 60 years of age.)
- 2nd. For increasing the number of the active force from 5,000 to 10,000 men, and the number of days drill in the year from 6 to 12.
- 3rd. For enabling the Governor-General in the event of war to enlist regiments independent of the militia for the purposes of the war.
- 4th. Empowering the formation of drill associations amongst persons not belonging to the active force.

Encl. 3.

Encl. 4.

I have also the honour to enclose a copy of the report of the commission on militia affairs appointed early in last spring, and of the bill founded on that report, which was rejected on its second reading by the legislative assembly.

The requisitions which I have made to your Grace for clothing were based on the force which that bill, if it had become law, would have called into existence.

The legislature has refused to recognise the present necessity for the military organization of the people of the Province to so large an extent as was contemplated by this Bill, but it has left untouched the powers which the old Militia Law conferred on the Governor-General (clause 61.) to "call out the militia or any part thereof, when-
"ever in his opinion it is advisable so to do by reason of war, invasion, or insurrection
"or imminent danger of any of them."

The Militia Commission, which numbered amongst its members military officers and civilians intimately acquainted with this Province, laid it down as their opinion (par. 8.), that to provide an efficient force for the defence of the country, an active force of 50,000 men, with a reserve of the same number ought to be provided.

This statement affords an index to the number of militiamen whom it would be my duty to call out in case the Province should unhappily become the seat of war.

It is true that in consequence of the failure of the Bill referred to, the men, when called out, will not be so efficient as we might have expected them to prove if they had been organized under its provisions, but still, with the exception of the 10,000 volunteers sanctioned by the new Act, they would be the only contribution which the Province would, under the law as it now stands, have it in its power to make towards its defence.

While I do not question the right of the Provincial Parliament to act as they have done in providing, in my judgment, so scantily for the defence of their territory, and while I am ready to admit that events may prove that in taking this course the representatives of the people in this Province are acting with sounder judgment than if they adopted a different line of conduct, I am on the other hand very anxious that should their views unhappily prove erroneous, I may be in a position to make the most efficient use of the means placed at my disposal.

It is with this object that I would earnestly press upon your Grace the propriety of largely augmenting, during the present navigation season, the supply of arms and ammunition in store in Canada, and of forwarding the other articles for which I have applied, cavalry equipments included, not for immediate issue to the militia force of the Province, but to meet the demand which must arise if the necessity for calling out the militia should ever unhappily occur.

Enclosure 1 in No. 2.

CAP. XXXV.

AN ACT respecting the MILITIA.

Encl. 1
in No. 2.

HER MAJESTY, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

1. The Governor shall, by virtue of his office, be Commander-in-Chief of the Provincial Militia 18 Vict. c. 77. s. 2.

Governor to be
Commander-in-
Chief of Militia,
Two classes of
Militia.

2. The Provincial Militia shall be divided into two classes,—Sedentary and Active. *Ibid.*, s. 3.

SEDENTARY MILITIA.

3. The Sedentary Militia shall consist of all the male inhabitants of the Province of the age of eighteen years or upwards and under sixty, not exempted or disqualified by law. *Ibid.*, s. 4.

Of whom to be
composed.

4. The Sedentary Militiamen shall be divided into two classes, to be called respectively Service Men and Reserve Men. The Service Men shall be those of eighteen years of age and upwards, but under forty-five years,—and the Reserve Men shall be those of forty-five years of age and upwards, but under sixty years. 22 Vict. (1859) c. 18, s. 2.

Divided into
service men
and reserve
men.

5. In time of peace, no actual service or drill shall be required of the sedentary militia, but they shall be carefully enrolled from time to time;—and the service men not exempted from muster, shall also assemble for muster annually, at such place and hour, in such manner and for such purposes, as the commanding officer of each battalion may direct with respect to each company therein; the muster day being in Lower Canada the 29th of June, or if that day fall on a Sunday, then the next day thereafter,—and in Upper Canada the Queen's birth day, or if that day fall on a Sunday, then the day next thereafter. 18 Vict. c. 77, s. 6. and 19, 20 Vict. c. 44, s. 5.

In time of
peace, seden-
tary militia to
be enrolled.
Service men to
be mustered
annually, and
where.

(2.) Except that the Commander-in-Chief may, in his discretion, but on the application of the commandant of any military district in Upper Canada, direct that the annual muster day in such district be the 29th day of June. 22 Vict. (1859) c. 18, s. 18.

Annual Muster
day in Upper
Canada may
be on the 29th
June.

6. The Commander-in-Chief may, by any militia general order, dispense with the annual general muster of the sedentary militia in either section of the Province, either in any particular year or until further order, and may in like manner again direct such muster to be held, if he sees fit;—and any such order shall have the force of law according to the terms thereof. 19, 20 Vict. c. 44, s. 3.

Governor may
dispense with
annual muster
and again
require it.

7. The following persons only between the ages of eighteen and sixty as aforesaid, shall be exempt from enrolment and from actual service in any case:

Exemptions
from enrolment
and service in
any case.

The judges of the Superior Courts of law or equity in Upper and Lower Canada;

The judge of the Court of Vice-Admiralty;

The judges of the County Courts;

The clergy and ministers of all religious denominations;

The professors in any college or university, and all teachers in religious orders;

The warden, keepers, and guards of the provincial penitentiary.

(2.) And the following, though enrolled, shall be exempt from attending muster and from actual service at any time except in case of war, invasion, or insurrection.

Exemptions
except in case
of war, &c.

The reserve men.

The members of the Executive and Legislative Councils.

The members of the Legislative Assembly.

The officers of the said Councils and Assembly respectively,

The attorneys and solicitors general.

The Provincial Secretary and assistant secretaries.

All civil officers appointed to any civil office in this province under the great seal.

All persons lawfully authorized to practise physic or surgery.

All advocates, barristers, solicitors, and attorneys.

Notaries in Lower Canada.

Half-pay and retired officers of Her Majesty's army or navy.

Postmasters and mail carriers.

Seafaring men actually employed in their calling.

Masters of public and common schools actually engaged in teaching.

Ferry-men.

One miller for each run of stones in every grist mill.

Keepers of public toll-gates.

Lock masters and labourers employed in attending to locks and bridges on public canals.

The engine drivers, conductors, and switchmen connected with the several railways actually in use in this province.

Members of fire companies and of hook and ladder companies, or persons having served as such regularly during seven consecutive years, and having a certificate thereof from the proper officer under the Act to exempt firemen from certain local duties and services.

Jailors, constables, and officers of courts of justice, not being such solely by virtue of their being non-commissioned officers of militia.

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Students

Students attending seminaries, colleges, schools, and academies, who have been attending such at least six months previous to the time at which they claim such exemption.
All persons disabled by bodily infirmity.

(3.) All persons bearing certificates from the society of Quakers, Mennonists, and Tunkers, or any inhabitant of this province, of any religious denomination, otherwise subject to military duty in time of peace, but who from the doctrines of his religion is averse to bearing arms and refuses personal military service shall be exempt therefrom.

Exceptions.

Exemption must be claimed.

(4.) But such exemption shall not prevent any person from serving or holding a commission in the militia, if he desires it and is not disabled by bodily infirmity; and no person shall have the benefit of such exemption unless he has, at least one month before he claims such benefit, filed his claim thereto with his affidavit (made before some magistrate) of the facts on which he rests his claim, with the commanding officer of the company within the limits whereof he resides; and whenever exemption is claimed, whether on the ground of age or otherwise the burden of proof shall always be upon the claimant. 18 Vict. c. 77, s. 7, 12 Vict. c. 36, and 4 & 5 Vict. c. 43.

Service men divided into two classes.

8. With a view to actual service in case of war, invasion, or insurrection, the service men shall be divided into two classes, to be called respectively, first-class service men and second-class service men; the first-class to consist of unmarried men and widowers without children, and the second-class of married men and widowers with children. 18 Vict. c. 77, s. 8.

Order in which they shall be taken for actual service.

9. When the sedentary militia are called out in case of war, invasion, or insurrection, those first taken for actual service shall be volunteers from the service men, then the first-class service men, then the second-class service men, and lastly the reserve men. *Ibid.*, s. 9.

Commander-in-Chief to divide U. C. & L. C. into military districts and may alter the same.

10. The commander-in-chief may, from time to time, by any militia general order, divide Upper and Lower Canada respectively into such number of military districts as he deems expedient, and to be designated as he sees fit, and may from time to time, by any militia general order, alter such division of the province into military districts, and increase or diminish the number thereof. *Ibid.*, s. 10, and 19 & 20 Vict. c. 44, s. 1.

Regimental and battalion divisions.

11. The commander-in-chief may from time to time, by any militia general order, divide the military districts respectively into regimental divisions, and the regimental divisions into battalion divisions, and may designate such divisions by such names or numbers as he sees fit. 18 Vict. c. 77, s. 11.

What men shall form the regiments and battalions.

12. The militiamen resident in each battalion division shall form a battalion of the regiment of the regimental division in which it lies, and all the battalions in any regimental division shall form the regiment thereof. *Ibid.*, s. 12.

Officers of regiments and battalions.

13. To each military district a colonel shall be appointed who shall command the militia in such district, and to each battalion a lieutenant-colonel, and such number of majors and regimental staff officers as may be deemed necessary. *Ibid.*, s. 13.

Company divisions to be formed.

14. Each lieutenant-colonel may, by any order made with the approval of the colonel of the military district, from time to time, divide his battalion division into company divisions, each containing as nearly as may be conveniently practicable, not less than fifty nor more than seventy-five resident service men; and the militiamen resident within each company division shall form a company of the battalion. *Ibid.*, s. 14.

Existing divisions to remain until altered.

15. All militia divisions existing before the passing of the Act 18 Vict. c. 77, shall remain in force until altered as aforesaid, and such of them as are allowed to remain unaltered shall be held to have been made by the proper authority under this Act, and for the purposes thereof. *Ibid.*, s. 15.

Officers and non-commissioned officers of companies.

16. To each company of militia there shall be appointed of commissioned officers, a captain, a lieutenant and an ensign; and of non-commissioned officers, three sergeants and three corporals. *Ibid.*, s. 16.

Surgeons, &c., may be appointed to militia.

17. The commander-in-chief may appoint to all militia regiments, companies or corps, the proper number of surgeons, assistant surgeons, and veterinary surgeons. 19 & 20 Vict. c. 44, s. 4.

Enrolment, how to be made by officers.

18. The enrolment of the sedentary militiamen shall be made in each company division by the captain thereof, with the assistance of the officers and non-commissioned officers of the company; and it shall be the duty of the captain, and, under his orders, of the other officers and non-commissioned officers of the company, by actual inquiry at each house in the company division, and by every other means in their power, to make and keep at all times a correct roll of the company in such form as may be directed by the adjutant general. 18 Vict. c. 77, s. 17.

Militiamen bound to give in their names.

19. Each man liable under this Act to be enrolled in any company, and not so enrolled, shall give in his name, age, and place of residence, in writing, to the captain or officer commanding such company, within twenty days after he becomes so liable, whether by the alteration of any militia division, change of residence, or otherwise howsoever. *Ibid.*, s. 18.

Rolls of companies to be made annually; also, returns of battalions.

20. The officer commanding a sedentary company of the militia shall, within twenty days after the annual muster day for such company, make out a corrected roll thereof, and transmit a certified copy thereof to the officer commanding the battalion, who, within forty days after such muster, shall forward a correct return of the battalion under his command to the assistant adjutant general of the military district, to be laid before the colonel commanding the same: and the said return shall then be transmitted by the assistant adjutant general, under the orders of the said colonel, to the adjutant-general at head quarters. *Ibid.*, s. 19.

Company rolls to be corrected

21. Each company roll shall be corrected from time to time as changes occur which affect it; and every householder and resident in the company division, and every assessor, town clerk, or other municipal

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municipal officer, shall be at all times bound to give to the commanding officer or any officer or non-commissioned officer of the company, such information as may be required to make such corrections, and to answer all such questions as any of them may pertinently put to him for the purpose of obtaining such information; and every militiaman shall be bound to inform the officer commanding the company, in writing, of any change of residence or other circumstances affecting such militiaman, by which the roll of any company is affected, whether such militiaman comes into or leaves the company division for which the roll is made. *Ibid*, s. 20.

ACTIVE OR VOLUNTEER MILITIA COMPANIES.

22. The active militia of the province in time of peace shall consist of volunteer troops of cavalry, field batteries, foot companies of artillery, and companies of infantry armed as riflemen, to be formed at places to be designated by the commander-in-chief;

(2) Except as herein-after provided, the total of such volunteer corps shall not exceed five thousand officers and men;

(3) The whole number of troops of cavalry, in class A herein-after mentioned, shall not at any time exceed sixteen, and the whole number of field batteries of artillery, in the said class A, shall not exceed seven; and from and after the thirty-first day of December 1859, the companies of foot artillery and rifle companies, in class A, shall not together exceed fifty in number, of which there shall not be a greater number of companies of foot artillery than five; and it shall be in the discretion of the commander-in-chief to determine what number (not exceeding five as aforesaid), of companies of foot artillery shall from time to time form portion of the said number of fifty;

(4) But until the day last aforesaid there may be in class A not exceeding five companies of artillery, and not exceeding fifty companies of riflemen; 18 Vict. c. 77, ss. 19, 21; 20 Vict. c. 44, s. 2; 22 Vict. (1859) c. 18, s. 3.

23. Notwithstanding any limitation in the next preceding section of the number of volunteer companies or corps, or of the number of men therein, the commander-in-chief may accept the services of any greater number of volunteers, and may form them into companies or corps; provided that no greater number of volunteer companies, corps, or men than that limited by the said section, shall receive pay or allowances except on actual service in time of war or insurrection.

(2) And the volunteer companies and corps receiving pay shall be known as Class A, and those receiving no pay as Class B. And whenever the number of companies or corps, or men, in Class A falls short of that limited by the said section, the deficiency may be supplied by removing the proper number from Class B into Class A; but in all respects, except as to pay and allowances, the provisions of this Act shall apply in like manner to the volunteer companies, corps, and men, in both classes. 19 & 20 Vict. c. 44, s. 2.

24. Each volunteer troop of cavalry, company of foot artillery, or company of riflemen, shall consist of a captain, a lieutenant, a cornet, second lieutenant or ensign, three sergeants, three corporals, a trumpeter or bugler, and not exceeding forty-three privates, except in companies of riflemen wherein the number of privates may be any number from forty-three to seventy-five.

(2) And each field battery of artillery shall consist of a captain, two first lieutenants, a second lieutenant, a sergeant major, three sergeants, three corporals, three bombardiers, a trumpeter, a farrier, fifty-nine gunners and drivers, including wheelers, collarmaker and shoeing-smith, fifty-six horses exclusive of officers' horses, and of four spare horses when the battery is called into actual service. 18 Vict. c. 77, s. 22.

25. The commander-in-chief shall have full power to appoint staff officers of the active militia with such rank as he shall from time to time think requisite or necessary for the efficiency of the militia service, and all such appointments as have been made by him are hereby confirmed; and any such staff officers shall have such rank and authority in the militia as are held relatively in Her Majesty's service, and their duties shall be the same for the militia as prescribed for the army by the Queen's Regulations aforesaid. 22 Vict. (1859) c. 18, s. 16.

26. The commander-in-chief shall have full power to constitute any number of rifle companies of the active militia at any one locality, or within any one district, not being less than six or more than ten companies, into a regiment or battalion, and to assign or appoint thereto by commission a lieutenant-colonel, two majors, one adjutant, one paymaster, one quartermaster, one surgeon, and one assistant-surgeon, whose rank and authority therein shall be the same as in the relative positions in Her Majesty's service; and such regiment or battalion shall be subject, in so far as the same are not inconsistent with the provisions of the militia laws of this province, to the Queen's Regulations for the Army published by authority, and any such lieutenant-colonel shall have authority to appoint staff sergeants for any battalion. 22 Vict. (1859) c. 18, s. 15.

27. A volunteer marine company may be formed at each of the following places:—Kingston, Cobourg, Toronto, Hamilton, Port Stanley, Dunnville, and Oakville. Each company to consist of a captain, a lieutenant, and fifty men; and a commodore of provincial marine may be appointed to command the whole and to rank as a lieutenant-colonel of militia. Captains in the provincial marine shall rank as majors in the militia, and lieutenants as captains in the same. 18 Vict. c. 77, s. 23.

28. The said marine companies shall be armed in such manner as the commander-in-chief directs, and shall be trained and drilled as well to the use of small arms as in the management of gun-boats and vessels, and the working of great guns on board vessels. 18 Vict. c. 77, s. 24.

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Duty of house-
holders, &c.,
to give all
information
requisite.

And of milita-
men.

Volunteer
companies to
be formed; of
what to consist.
Total limited.

Number of
companies of
foot artillery
and rifles,
limited after
end of 1859.

Unpaid volun-
teer corps
may be formed.

Unpaid volun-
teer may
become paid
corps, as va-
cancies occur.
Proviso.

Force of volun-
teer companies
respectively.

The same.

Appointment
of staff officers
and their rank.

Any number of
rifle corps in
any locality
may be consti-
tuted into a
regiment or
battalion, &c

Volunteer
marine com-
panies may be
formed at cer-
tain places.

How to be
armed and
drilled.

Volunteer
company of
engineers.

On what au-
thority com-
panies may be
formed and
disbanded.

Uniforms of
volunteer
corps.

Further condi-
tion.

Arms, &c. of
volunteer com-
panies.

To be furnished
by the province
except to offi-
cers.

Security may
be taken for
safe keeping,
&c.

Repairing of
arms, &c.

By whom and
where arms,
&c., shall be
kept.

Proviso : as to
liabilities in-
curred before
this Act.

Corps to ap-
pear armed on
certain occa-
sions only.

Officers' arms.

Exemption of
arms, horses,
&c., from
seizure.

How volunteer
companies
shall be drilled
and exercised.

Pay list and
affidavit.

Adjutant-
general to
draw up code of
instructions.

29. In each militia district there may be formed a volunteer company of engineers, to consist of a captain, a lieutenant, a second lieutenant, and such number of men not exceeding seventy-five, as the Governor may direct, but such companies shall not be subject to drill or to service in time of peace. 18 Vict. c. 77, s. 25.

30. All volunteer companies shall be formed and may be disbanded by authority of the commander-in-chief, as may in his opinion best tend to further the purposes of this Act and the public good. *Ibid.*, s. 26.

31. The uniform of the several field batteries, of the several troops of cavalry, and of the several rifle companies, continued under this Act, or organized after the fourth day of May 1859, shall be of such one and similar colour, pattern, and design as may be ordered by the commander-in-chief.

(2.) Provided that but one, and that a similar colour, pattern, and design, shall be approved for each of them respectively,—the field batteries, troops of cavalry, rifle companies, and companies of foot artillery, and each of such corps shall conform in all particulars to the order of the commander-in-chief in such respect. But the several corps in existence on the said day and to be continued in existence under this Act, may continue to wear their then clothing until the same requires to be replaced, and it shall be the duty of the superior officer of the said corps respectively to see that the same are, upon any such replacing of clothing, uniformed according to the order of the commander-in-chief in such respect. 22 Vict. (1859) c. 18, s. 12.

32. The arms and accoutrements of the officers and men of the several volunteer companies shall be such as the commander-in-chief from time to time directs, but of the best and most serviceable kind, without unnecessary ornament. Such arms and accoutrements shall be furnished to the non-commissioned officers and privates of the said volunteer corps at the expense of the province, but shall always remain provincial property, and the parties receiving them shall be accountable for them. And the commander-in-chief may direct such security as he thinks proper to be taken for the safe keeping in good order of such arms and accoutrements, and the re-delivery thereof to such officer as may be appointed to receive them, whenever the commander-in-chief for any purpose directs such re-delivery. 18 Vict. c. 77, s. 27.

33. The said arms and accoutrements shall be renewed and kept in repair at the cost of the province, whenever such renewal or repair becomes necessary from wear in service or other cause than the fault or neglect of the person having charge thereof, in which last-named case they shall be renewed or repaired by such person, or, if renewed or repaired at the cost of the province, the cost may be recovered from such person as a debt due by him to the Crown. *Ibid.*, s. 28.

34. The arms and accoutrements of non-commissioned officers and men of the active militia shall be kept in public armouries wherever there are such, and where there are no such public armouries then the captain of each volunteer corps shall be personally responsible for the arms and accoutrements of the non-commissioned officers and men of his corps, and shall himself actually keep the same, and may be allowed annually a sum not exceeding twenty dollars for so doing and for taking care of the arms and accoutrements. 22 Vict. (1859) c. 18, s. 5.

(2.) Nothing herein shall be construed to relieve the officers or men of the volunteer or active force of any liability in respect to the arms and accoutrements thereof, delivered to the custody, care, or possession of any of them, or in any other respect, under the Acts 18 Vict. c. 77, and 19 & 20 Vict. c. 44; but any proceedings thereto relating shall be brought within twelve months after the discovery of any breach of the provisions thereof. 22 Vict. (1859) c. 18, s. 21.

35. No corps of active militia and no non-commissioned officer or private thereof shall at any time appear armed or accoutred, except when *bonâ fide* at drill whether paid or unpaid, or at target practice, or at reviews or on field days or inspections, or for receiving distinguished persons or rendering funeral honours to deceased comrades, or when required to act in aid of the civil power, under due authority; nor shall the arms and accoutrements be taken out of this province. 22 Vict. c. 18, s. 6.

36. Commissioned officers of the said companies shall furnish their own arms and accoutrements. 18 Vict. c. 77, s. 30.

37. The arms and accoutrements of the officers and men of such volunteer companies, and the horses used by them as such, shall be exempt from seizure in execution and from distress and assessment; nor shall any such horse be disposed of by any officer or man without leave of the officer commanding the company. *Ibid.*, s. 31.

38. The volunteer militia companies shall be drilled and exercised at such time in each year and at such places as the commander-in-chief may from time to time appoint, the volunteer field batteries being so drilled and exercised during twelve days in each year, of which at least six days shall be consecutive, and the other volunteer corps once in each year during six consecutive days (Sundays not reckoned in either case), and the companies under drill being encamped during the whole or any part of the period for drill, if the commander-in-chief sees fit:

(2.) Provided that, inclusive of the pay for the year 1859, and annually thereafter, the moneys to be paid for pay for each day on which companies are so drilled shall be paid only in the month of December in each year, and upon the pay list and affidavit thereto being duly furnished to the adjutant-general as herein-after required. 22 Vict. (1859) c. 18, s. 4.

39. The adjutant-general or the deputy adjutants-general shall draw up, under the direction of the commander-in-chief, a code of instruction, drill, and exercise for the said volunteer companies, based on that in use in Her Majesty's regular army, and each commissioned officer of a volunteer company shall be furnished with a copy and shall be governed by the said code in drilling and exercising the corps to which he belongs. 18 Vict. c. 77, s. 33.

40. The active militia force shall be paid by the province, the sums and in the manner following:—
 (1.) For the year 1859, the non-commissioned officers and men of Class A shall be paid for each day's actual and *bond fide* drill the sum of one dollar, and for each horse actually and necessarily present and used for such drill, and belonging to or used by such non-commissioned officers or men, the further sum of one dollar per diem.

(2.) For each and every year, other than the year 1859, the non-commissioned officers and men of such corps of class A and of such portions thereof only as are herein-after mentioned, shall for each day's actual and *bond fide* drill be paid the sum of one dollar, and in so far only as regards the horses and to be used in the field batteries, for each horse actually and necessarily present and used for such drill and belonging to or used by the non-commissioned officers and men of the said field batteries, the further sum of one dollar per diem.

(3.) And the said corps or portions thereof respectively so entitled to be paid are as follow:—

Field Batteries.—The non-commissioned officers and men, not exceeding seventy in number and the horses, not exceeding thirty-six in number, of each of the seven field batteries constituted under the Act 18 Vict. c. 77, before the fourth day of May 1859, and existing on the said day:

Cavalry.—Thirty non-commissioned officers and men of each of the five troops of cavalry senior in priority of Gazette under the said Act in Upper Canada, and thirty non-commissioned officers and men of each of the five troops of cavalry senior in priority of Gazette as aforesaid in Lower Canada;

Infantry.—Thirty non-commissioned officers and men of each rifle company, and of each foot company of artillery.

(4.) But it shall be within the option of the commanding officer of any such corps of cavalry infantry, or foot artillery, in pursuance of any contract previously made with the non-commissioned officers and men of the corps under his command, to distribute the total amount of pay to which such thirty men would be entitled for their drill as herein-before mentioned, in a less proportion than the sum of one dollar to each man, so that the surplus of men *bond fide* enrolled and acting in such corps, to a number not exceeding twenty additional men, may receive a proportion of such pay, it being the intent hereof that no man under any such contract shall receive less than the sum of sixty cents per diem during the drill as aforesaid.

(5.) And it shall be the duty, of every commanding officer of a corps, or in case of his absence during the annual drill, of the officer next in command and personally present, during the month of November in each year, to forward the pay list of the said corps to the adjutant-general or deputy adjutant-general of militia, having attached thereto an affidavit sworn before any justice of the peace, that the several non-commissioned officers and privates in the said pay-list named for pay, were actually and *bond fide* personally present at each day's drill, and were actually drilled for the number of days and in manner by law required, and were and continued severally on the roll of the said corps from the month of January in such year, and performed duty therewith when required during such year, and in addition thereto in cases of field batteries, that each horse in the said pay list charged for pay was actually and necessarily present and used for such drill. 22 Vict. (1-59) c. 18, s. 7.

41. Nothing herein contained shall be construed to prevent any such company from assembling or being ordered out by the officer commanding it for drill or exercise, without receiving any pay therefor from the province, according to any articles of engagement or regulations of such company, previously approved by the commander-in-chief; and any such articles, in so far as they are not inconsistent with this Act, shall be enforced, and the penalties which may be thereby imposed shall, whenever they are incurred, be recoverable in the manner herein-after mentioned, by the person or officer designated for that purpose in such articles, to such uses as may be therein directed. 18 Vict. c. 77, s. 35.

42. Sufficient ammunition for practice at drill shall be supplied to the volunteer companies at the expense of the province, in such manner as the commander-in-chief may direct. 18 Vict. c. 77, s. 36.

43. Each serjeant-major of a volunteer field battery of artillery shall, on account of the great responsibility attached to the office, be paid by the province at the rate of two hundred dollars per annum; and competent persons shall be appointed by the commander-in-chief to drill the other volunteer companies, and shall be paid by the province one dollar and fifty cents per diem, when so employed. *Ibid.*, s. 37.

44. The said volunteer companies shall be liable to be called out in aid of the ordinary civil power in case of riot or other emergency requiring such services, and shall when so employed receive from the municipality in which their services are required, the rates of pay above mentioned, and a further sum of fifty cents per man per diem for additional expenses, and shall be also provided with proper lodging by such municipality; and the said sums and the value of such lodging, if not furnished by the municipality, may be recovered from it by the captain of the company, in his own name, and when received or recovered shall be paid over to the officers and men entitled thereto. *Ibid.*, s. 38.

45. It shall be the duty of the captain or officer commanding any such volunteer company to call out the same, or such portion thereof as is necessary, for the purpose of quelling any riot, when thereunto required in writing by the mayor, warden, or other head of the municipality in which such riot takes place, or by any two magistrates therein, and to obey such instructions as may be lawfully given him by any magistrate in regard to the mode of quelling such riot; and every officer, non-commissioned officer and man of such company shall on every such occasion obey the orders of his commanding officer, and the officers and men when so called out shall, without any further or other appointment, and without taking any oath of office, be special constables, and shall act as such so long as they remain so called out. *Ibid.*, s. 39.

(10.)

B

Payment of active militia.

Pay for men and horses in class A when at drill, for 1859.

A certain number only to be paid after 1859, and at what rate.

Artillery corps.

Cavalry corps.

Infantry corps.

Commanding officer may divide the pay among a greater number on certain conditions.

Pay list, with affidavit attached, to be transmitted to adjutant-general.

Volunteers may be drilled at other times according to their articles of engagement.

Ammunition for practice.

Pay of serjeant-major of artillery companies, &c.

Volunteers may be called out in aid of the civil power, and shall be paid in such cases by the municipality.

How they may be so called out, and their duty in such cases.

To be sworn in as special constables.

Volunteers
exempt from
serving as
jurors or
constables.

Evidence of
service.

Notice to be
given before
leaving any
volunteer
company.

Term of
engagement.

Inspection of
volunteer
corps.

Proviso: as to
rank of in-
specting officer.

Commissions,
by whom
granted.

Non-commis-
sioned officers.

Officers must
be Her Maje-
sty's subjects.

Existing com-
missions to
remain until
cancelled.

No person
bound to serve
in a lower
grade than he
has held.

Battalions em-
bodied in 1837,
1838, 1846 &
1847.

Adjutant-
general to be
appointed only
in cases of
war or
emergency.

Pay of adju-
tant-general.

Adjutant-
general and
deputies,
Rank,
Pay.

Offices of in-
specting officer
and deputy
adjutant-go-

46. The officers, non-commissioned officers, and men of volunteer corps, shall, while they continue such, be exempt from serving as jurors or constables; and whenever they have served as such in one or more volunteer corps during a term of seven years, such exemption shall continue after the expiration of the said term; and a certificate under the hand of the commanding officer of any such corps shall be sufficient evidence of the service in his corps of any officer, non-commissioned officer or man for the then current year. 22 Vict. (1859) c. 18. s. 8.

47. No non-commissioned officer or man of any volunteer company shall in any case, unless legally discharged, leave the same without giving at least two months' notice in writing to the commanding officer thereof of his intention so to do; nor shall he, at any time, leave the same contrary to the engagement contained in any articles of engagement he has signed; and the term of engagement shall not be less than five years. 18 Vict. c. 77. ss. 41, 65., and 22 Vict. (1859) c. 18. s. 9.

48. The several volunteer corps shall be subject to inspection from time to time by such person or persons as shall be temporarily appointed by the commander-in-chief for such inspection, and who shall report fully to the Governor on the state of such corps and their arms and accoutrements and the general efficiency of such force, and shall be reimbursed his or their actual travelling expenses by the province, and paid therefor at a rate not exceeding four dollars per diem whilst so engaged:

(2.) Provided that such person or persons to be appointed from time to time for such inspection, shall be an officer or officers (not being under the rank of field officer) of Her Majesty's service, and actually serving in this province, or in case the services of an officer or officers as aforesaid cannot be obtained, then such other person not being under the rank of field officer of militia of this province who shall in like manner be reimbursed his actual travelling expenses and paid such remuneration. 22 Vict. (1859) c. 18. s. 10.

GENERAL PROVISIONS.

49. All commissions of officers in the provincial militia shall be granted by the commander-in-chief and during pleasure. 18 Vict. c. 77. s. 43.

50. All non-commissioned officers in the provincial militia shall be appointed by the officer commanding the battalion to which they belong, except in volunteer companies where they shall be appointed by the captain thereof, and shall in either case hold their rank during pleasure. *Ibid.*, s. 44.

51. No person shall be an officer of militia unless he is one of Her Majesty's subjects by birth or naturalization, nor if he is such subject by naturalization only, unless he has taken the oath of allegiance. *Ibid.*, s. 45. and 19 & 20 Vict. c. 44. s. 6.

52. Commissions in the provincial militia and appointments of non-commissioned officers, existing immediately before the passing of the Act 18 Vict. c. 77. shall remain in force, such commissions being subject to be cancelled by the commander-in-chief, and such appointments by the officer commanding the battalion; but no person shall be bound to serve in the provincial militia in a lower grade than he has once held, unless he has resigned his commission or is reduced by sentence or order of some lawful court or authority; nor shall any person who has been a non-commissioned officer in Her Majesty's army be bound to serve in the militia in a lower grade than he held in the army, unless he had been reduced as aforesaid. 18 Vict. c. 77. s. 46.

53. The next preceding section applies to and includes the battalions embodied in the years one thousand eight hundred and thirty-seven, one thousand eight hundred and thirty-eight, one thousand eight hundred and forty-six, and one thousand eight hundred and forty-seven, in the cities of Quebec and Montreal, and the said battalions are still lawfully embodied, and commissions in them are valid under the said section; and the said battalions are subject to all the provisions of this Act as sedentary militia, and may be called out as such by the commander-in-chief. 19 & 20 Vict. c. 44. s. 7.

54. No adjutant-general of militia shall be appointed except in case of war or any such emergency as may, in the opinion of the Governor-General, render it necessary or expedient that such office should be filled; and in case of war or such emergency as aforesaid, no person shall be appointed to the said office who is not, to the satisfaction of the commander-in-chief, a person educated to the military profession and thoroughly competent to discharge the duties of the said office of adjutant-general; and the duties of the office of adjutant-general during the vacancy of the office shall be performed by the deputy adjutants-general for Upper and Lower Canada respectively, under orders from time to time of the commander-in-chief, or by such person as may be appointed by the commander-in-chief on any occasion, for the special and temporary discharge of any such duties. 22 Vict. (1859) c. 18. s. 14.

55. The adjutant-general, when appointed as aforesaid, shall act as such for the whole province, and shall have the rank of colonel in the provincial militia, and shall be paid by the province at the rate of three thousand dollars per annum while discharging the duties of his office. 18 Vict. c. 77. s. 47. and 22 Vict. (1859) c. 18. s. 14.

56. There shall be two deputy adjutants-general, one for Upper and the other for Lower Canada; and each of the deputy adjutants-general shall have the rank of lieutenant-colonel in the provincial militia, and he shall hold his office during pleasure; and each of the deputy adjutants-general shall be paid by the province at the rate of two thousand dollars per annum. 18 Vict. c. 77. s. 47.

57. The commander-in-chief may in his discretion amalgamate the offices of deputy adjutant-general and inspecting field officer of militia in Upper or Lower Canada, in which case the salary of the officer performing such amalgamated offices, and who shall be known as deputy adjutant-general and

inspector of militia, shall not exceed the sum of two thousand dollars per annum. 22 Vict. (1859) c. 18, s. 11.

58. The commander-in-chief may from time to time appoint so many assistant adjutants-general, with such duties as he thinks proper or expedient, but no pay or allowances shall be made to them in respect of such appointment. 22 Vict. (1859) c. 18, s. 13.

59. There shall be in and for each military district an assistant quartermaster-general, whose duty it shall be to make himself thoroughly acquainted with the roads and communications and other matters appertaining to the topography of his district, and to furnish such information on the subject as may be required by the commander-in-chief, in which duty the officers of the volunteer engineer corps shall assist him with the local information they acquire. 18 Vict. c. 77, s. 50.

60. All contraventions of this Act, and of regulations or orders lawfully made or given under it, when the militia or that portion thereof to which the offender belongs, is not called out for actual service, shall be punishable by penalties to be imposed by one or more justices of the peace, and in a summary manner as herein-after provided, and in such cases courts-martial shall not be held. *Ibid.*, s. 51.

CALLING OUT THE MILITIA.

61. The commander-in-chief may call out the militia, or any part thereof, whenever it is in his opinion advisable so to do, by reason of war, invasion, or insurrection, or imminent danger of any of them. *Ibid.*, s. 52.

62. The colonel commanding any military district, or the lieutenant-colonel commanding any battalion division, may, upon any sudden emergency of invasion or insurrection, or imminent danger of either, call out the whole or any part of the militia within his command, until the pleasure of the commander-in-chief is known. *Ibid.*, s. 53.

63. The militia so called out by their colonel or lieutenant-colonel shall immediately obey all such orders as he may give and march to such place within or without the division as he may direct. *Ibid.*, s. 54.

64. When the militia of any local division are called out, in case of war, insurrection, or invasion, or imminent danger thereof, all companies of volunteers in such division shall be included in the order and shall obey the officer issuing it. *Ibid.*, s. 55.

65. When the whole militia of the province are called out all the volunteer companies shall be included and shall immediately obey the orders they receive. *Ibid.*, s. 56.

66. Each sedentary militiaman called out for actual service shall attend at such time and place as may be directed by the officer commanding him, with any arms and accoutrements he has received from the province, and with such provisions as such officer may direct. *Ibid.*, s. 57.

67. When the commander-in-chief calls out the militia, and the emergency is not such as to require that the whole of the sedentary militia or of any class thereof, or the whole in any militia division or of any class of militiamen therein, be taken for actual service, he may from time to time direct the number of men to be furnished from the sedentary militia of the whole province or of any militia division thereof, over and above the volunteer companies therein, which shall always be the first taken for actual service. *Ibid.*, s. 58.

68. The number of men to be so furnished shall in the first instance be taken from the first class service men in the several company divisions in that part of the province to which the order applies, and in proportion as nearly as may be to the number of such men in each. Volunteers shall be first taken from each company, but if the number of volunteers be not sufficient, then such further number as may be required shall be drawn by lot under the superintendence of the commanding officer of the company, whose certificate that any man has been so drafted or volunteered or consented to serve as substitute for a drafted man shall be evidence of the fact. *Ibid.*, s. 59.

69. No militiaman drafted for actual service shall be exempt from serving, unless he forthwith pays a penalty of forty dollars, which shall be given to any approved man of the same class who is not himself drafted for service, and will serve in the place of the militiaman paying such penalty, or such militiaman may provide an approved substitute of the same class and not drafted to serve in his place; and any volunteer or substitute, by his consent to serve as such, shall become liable in all respects as if drafted. *Ibid.*, s. 60.

70. No man drafted and unfit from bodily infirmity to perform his duty shall be taken for service. *Ibid.*, s. 61.

71. If a greater number of men are required than the whole number of first-class service men, then the requisite number shall be taken from the second-class service men, in like manner. *Ibid.*, s. 62.

72. The sedentary militiamen so taken or drafted for actual service shall, by such officers as may be detailed for that purpose by the lieutenant-colonel of the battalion from which they are taken, be marched to such place as the commander-in-chief may appoint, and shall there be embodied into companies and battalions in such manner as the commander-in-chief may direct, and being so embodied shall be commanded by such officers as from their qualification and fitness he thinks proper to appoint. *Ibid.*, s. 63.

73. Any volunteer companies, so called out for actual service, may be embodied into battalions if the commander-in-chief thinks fit so to order. *Ibid.*, s. 64.

74. The militiamen so taken or drafted for actual service from the sedentary militia, shall serve during one year unless sooner disbanded, and may then be replaced by others taken as aforesaid, and shall not be liable to be again taken until all others in the same class have been taken. But the men in volunteer militia companies shall serve for the time for which they have engaged to serve, which time shall not be less than five years, subject however to be determined on one month's

neral may be amalgamated; salary in such case.

Any number of assistant adjutants-general may be appointed, but without pay.

Assistant quartermaster-general.

Militia offences, how punishable, in time of peace, without courts-martial.

Commander-in-chief may call out militia in certain cases.

And colonels or lieutenant-colonels in their divisions until Governor's pleasure be known.

Militiamen bound to obey. Volunteer companies to be included.

And so when the whole militia is called out. Sedentary militiamen to attend with their arms.

When the whole are not taken a certain number may be directed to be furnished.

How such number shall be taken.

Drafting men.

Militiamen drafted must serve, find a substitute, or pay the fine.

Infirm persons exempted.

In what case second-class service men may be taken.

How men so taken shall be embodied and commanded.

Volunteer companies may be embodied.

Term of service.

PROVISO

To what places
may be
marched.

Militia called
out to be sub-
ject to articles
of war.

Rank and com-
mand of officers
as regards
militia.

For what
offences only
militiamen may
be sentenced to
death.
Sentence must
be first ap-
proved.

Officer of
regular army
on full pay not
to sit, &c.

Arms, &c., of
sedentary
militia to be
kept in certain
places.

Buildings for
armouries.

Care of such
armouries.

Arms, how
delivered to
sedentary
militia.

May be kept by
Militiamen in
certain cases.

What shall be
furnished by
those on whom
they are
billeted.

Impressing
carriages, &c.,
on emergency.

Justice of the
peace to billet
on requisition
of commanding
officer.

Lodging of
officers not to
be paid for.

Allowance for
men billeted.

Proper officer
to settle
accounts of

notice as herein-before mentioned: Provided that no volunteer shall leave the service, either with or without notice, at any time when the militia are called out, unless he is regularly discharged or has served out the time for which he engaged. 18 Vict. c. 77, s. 65.

75. The militia so called out may be marched to any part of the province, or to any place without the province, but contemnerous therewith, where the enemy is, and from which an attack on this province is apprehended. *Ibid.*, s. 66.

76. The militia so called out, and every officer or man belonging to it, shall from the time he has been ordered, taken, or drafted for actual service, be subject to the articles of war and to the Act for punishing mutiny and desertion, and all other laws then applicable to Her Majesty's troops in this province, and not inconsistent with this Act; except that no militiaman shall be subject to any corporal punishment except death or imprisonment for any contravention of such laws; and except also that the commander-in-chief may direct that any provisions of the said laws shall not apply to the militia. *Ibid.*, s. 67.

77. Any body of militia so called out shall be commanded by the officer highest in rank then present, or the senior of two or more officers of equal rank. Officers of Her Majesty's regular army shall always be reckoned senior to all militia officers of the same rank, whatever be the dates of the respective commissions. And colonels appointed by commission signed by the commander of Her Majesty's regular forces in Canada, shall command colonels of militia, whatever be the date of their respective commissions. *Ibid.*, s. 68.

78. No militia officer or militiaman shall be sentenced to death by any court-martial except for mutiny, desertion to the enemy, or traitorously delivering up to the enemy any garrison, fortress, post, or guard, or traitorous correspondence with the enemy. And no sentence of any general court-martial shall be carried into effect until approved by the commander-in-chief. *Ibid.*, s. 69.

79. No officer of Her Majesty's regular army on full pay shall sit on any militia court-martial. *Ibid.*, s. 70.

ARMAMENT OF THE SEDENTARY MILITIA.

80. The arms and armaments for the sedentary militia shall, when such militia is not called out for actual service, be kept in armouries at the following places: Quebec, Three-Rivers, Rivière-de-Loup (below), Sorel, St. John's, Montreal, the city of Ottawa, Prescott, Kingston, Peterborough, Toronto, Guelph, Hamilton, London, and Chatham. *Ibid.*, s. 71.

81. If there be at any such place no building adapted to be used as such armoury, the commander-in-chief may cause a proper building to be erected, at a cost not exceeding three thousand dollars for each such building; or he may cause any public building or part thereof to be altered so as to adapt it for such armoury at a cost not exceeding one half the said sum. *Ibid.*, s. 72.

82. The commander-in-chief may employ a proper person to have charge of each such armoury and of the arms therein, and may cause such person to be paid at a rate not exceeding three hundred dollars per annum. *Ibid.*, s. 73.

83. The arms in such armouries respectively shall be delivered out to the sedentary militia called into actual service, in such way as the commander-in-chief shall appoint. *Ibid.*, s. 74.

84. If there be any militia division in which, from its position, it is not deemed advisable to have the arms of the sedentary militia kept in an armoury, such arms may be delivered out to the enrolled service men of the first class or of the first and second classes in such division, as the commander-in-chief may order, each man giving a receipt for those received by him and security for their safe keeping and delivery to any officer authorized to demand them. *Ibid.*, s. 75.

BILLETING AND CANTONING TROOPS AND MILITIA WHEN ON ACTUAL SERVICE, AND FURNISHING CARRIAGES, HORSES, &c., FOR THEIR TRANSPORT AND USE.

85. When Her Majesty's regular forces or the militia are on a march within this province, and billeted as herein-after mentioned, every householder therein shall, when required, furnish them with house-room, fire and utensils for cooking, and candles; and in cases of emergency, by actual invasion or otherwise, the officer commanding the regiment, battalion, or detachment of troops or militia, may direct and empower any officer or non-commissioned officer of the same, or other person, after having first obtained a warrant for such purpose from a justice of the peace, to impress and take such horses, carriages, or oxen, as the service may require, the use of which shall be thereafter paid for at the usual rate of hire for such horses, carriages, or oxen. *Ibid.*, s. 76.

86. When the said troops of Her Majesty, or the militia, or any regiment, battalion, or detachment of the same, are on a march as aforesaid, the officer or non-commissioned officer commanding them shall require a justice of the peace to billet, and such justice shall immediately thereupon so billet the said troops or militia as to facilitate their march, and in such manner as may be most commodious to the inhabitants; and every inhabitant householder shall receive the troops or militia so billeted upon him, and furnish them with the lodging and articles mentioned in the next preceding section. *Ibid.*, s. 77.

87. No officer shall be obliged to pay for his lodging where he is regularly billeted; but each householder upon whom such soldiers are billeted shall receive from Government for each non-commissioned officer, drummer and private of infantry, a daily rate of ten cents, and for each cavalry soldier, whose horse shall be also provided with stabling and forage, a daily rate of twenty-five cents; and every officer or non-commissioned officer to whom it belongs to receive, or who does actually receive the pay for any officers or soldiers, shall, every four days, or before they quit their quarters if they do not remain so long as four days, settle the just demands of all householders, victuallers, or

other persons upon the said officers and soldiers are billeted, out of their pay and subsistence money, before any part of the said pay or subsistence money shall be distributed to them respectively, provided such demands do not exceed in amount their pay and subsistence money for the time, beyond which credit is not to be granted. *Ibid.*, s. 78.

88. When the safety of this province requires that the said troops of Her Majesty or militia, or any regiment, battalion, or detachment of the same should be cantoned in any part of this province, any justice of the peace in the places where such troops or militia are cantoned, shall, upon receiving an order from the officer commanding them, or on a requisition from the officer commanding any such cantonment, quarter and billet the officers, non-commissioned officers, drummers, and privates of the said troops or militia, upon the several inhabitant householders, as near as may be to the place of cantonment, avoiding as much as possible to incommode the said inhabitants, and taking due care to accommodate the said troops or militia. *Ibid.*, s. 79.

89. If any inhabitant considers himself aggrieved by having a greater number of the said troops or militia billeted upon him than he ought to bear in proportion to his neighbours, then, on complaint being made to two or more justices of the locality where such troops or militia are cantoned, they may relieve such inhabitants, by ordering such and so many of the said troops or militia to be removed and quartered upon such other person or persons as they see cause, and such other person or persons shall receive such troops or militia accordingly. *Ibid.*, s. 80.

90. No justice of the peace having any military office or commission in the said troops or militia shall directly or indirectly be concerned in the quartering or billeting of any officer, non-commissioned officer, or soldier of the regiment, corps, or detachment under the immediate command of such justice or justices. *Ibid.*, s. 81.

91. Nothing in this Act contained shall be construed to authorize the quartering or billeting of any troops or militia either on a march or in cantonment, in any convent or nunnery of any religious order of females, or to oblige any such religious order to receive such troops or militia, or to furnish them with lodging or house room. *Ibid.*, s. 82.

92. When any troops of Her Majesty or any militia are so cantoned as aforesaid, any justice of the peace where such cantonment is made, upon receiving an order to that effect from the officer commanding the said troops or militia, or a requisition in writing from the officer commanding that cantonment, for such and so many carriages as may be requisite and necessary for the said troops or militia, shall issue his warrant to such person or persons as are possessed of carriages, horses, or oxen, within his jurisdiction requiring him or them to furnish the same for the service aforesaid, and if any person after receiving such warrant refuses to furnish the same they may be impressed and taken for such service; but no such carriage, horse, or ox, or any carriage, horse, or ox mentioned in the previous sections of this Act shall be compelled to proceed more than thirty miles, unless in cases where other carriages, horses, or oxen cannot immediately be had to replace them; and such carriages, horses, or oxen shall be paid for at the usual rate of hire. *Ibid.*, s. 83.

93. In cases of emergency, when it is necessary to provide proper and speedy means for the conveyance by railway or by water of the troops of Her Majesty or of the militia, and also of their ammunition, stores, provisions, and baggage, any justice of the peace of and in the locality where such troops or militia are either on a march or in cantonment, upon receiving a requisition in writing from the officer commanding such troops or militia, for such railway cars and engines, boats, or other craft, as are requisite for the conveyance of the said troops or militia, and their ammunition, stores, provisions, and baggage, shall issue his warrant to such person or persons as are possessed of such railway cars and engines, boats, or other craft within his jurisdiction, requiring him or them to furnish the same for that service, at and after the rate of payment to be allowed by the said justice, not exceeding the usual rate of hire for such railway cars and engines, boats, or other craft; and if any such person neglects or refuses, after receiving such warrant, to furnish such railway cars or engines, boats or other craft for that service, such railway cars or engines, boats or other craft may be impressed and taken for such service; but nothing herein shall impair the effect of any Act obliging any railway company to convey such troops, militia, and other articles aforesaid, in any manner or on any terms and conditions therein mentioned, or to release any such company from any obligation or penalty thereby imposed. *Ibid.*, s. 84.

OFFENCES AND PENALTIES.

94. Any officer or commissioned officer of militia of this province appointed or to be appointed to the active force or to the sedentary militia who obtains under false pretences or who retains or keeps in his own possession, with intent to apply to his own use or benefit, any of the pay or moneys belonging to any non-commissioned officer or private of any corps shall be guilty of a misdemeanor and shall be dismissed from the said militia force. 22 Vict. (1859) c. 18, s. 17.

95. Any person making an affidavit or declaration required in and by this Act, and swearing or declaring falsely therein, shall be guilty of perjury. 22 Vict. (1859) c. 18, s. 19.

96. Any officer of militia refusing or neglecting to make or transmit, as herein prescribed, any roll or return or copy thereof, required by this Act or by any lawful authority, or wilfully making any false statement in any such roll, return, or copy, shall thereby incur a penalty of forty dollars for each offence. 18 Vict. c. 77, s. 85.

97. Any officer or non-commissioned officer of militia refusing or neglecting to assist his commanding officer in making any such roll or return, or refusing or neglecting to obtain or to assist him in obtaining any information which he may require in order to make or correct any roll or return, shall thereby incur a penalty of twenty dollars for each offence. *Ibid.*, s. 86.

98. Any militiaman or other person refusing or neglecting to give any notice or information necessary for making or correcting the roll of any company, and which he is required by this Act to

officers and soldiers out of their pay, &c.

Quartering and billeting troops &c., in cantonments.

Complaint of persons aggrieved and how redressed.

No justice, being an officer to billet or quarter troops.

Troops not to be billeted upon nuns, &c.

Justice may require persons to furnish carriages, &c., for troops. May be impressed on refusal to furnish. Limitation of travel.

How paid. In case of emergency boats, &c., may be required in like manner.

Rate of pay for the same. May be impressed on refusal to furnish. As to Railway Companies.

Unlawfully retaining moneys belonging to militiamen to be a misdemeanor. Offender to be dismissed.

False swearing to be perjury. Refusal to make roll, &c. Penalty.

Refusing to assist in making rolls, &c.

Refusing to give information for making roll, &c.

give to the commanding officer of such company or to any officer or non-commissioned officer thereof demanding the same at any reasonable hour and place, shall thereby incur a penalty of ten dollars for each offence. 18 Vict. c 77, s. 87.

Neglecting to attend muster, or misbehaving thereat, &c.

99. Any militia officer or man, not exempt from attending muster, who neglects or refuses to attend the same at the place and hour appointed therefor, or who refuses or neglects to obey any lawful order at or concerning such muster, shall thereby incur a penalty of not more than five dollars for each offence. *Ibid.*, s. 88.

Hindering militia at drill.

100. Any person who interrupts or hinders any militia at drill, or trespasses on the bounds set out by the proper officer for such drill, shall thereby incur a penalty of five dollars for each offence, and may be taken into custody and detained by any person by the order of the commanding officer, until such drill be over for the day. *Ibid.*, s. 89.

Disobeying orders, &c.

101. Any officer, non-commissioned officer, or militiaman, disobeying any lawful order of his superior officer, or guilty of any insolent or disorderly behaviour towards such officer, shall thereby incur a penalty of five dollars for each offence. *Ibid.*, s. 90.

Not keeping arms, &c., in proper order.

102. Any officer, non-commissioned officer, or militiaman, who fails to keep any arms or accoutrements delivered or entrusted to him in proper order or who appears at drill, parade, or on any other occasion, with his arms or accoutrements out of proper order, or unserviceable, or deficient in any respect, shall incur a penalty of four dollars for each such offence. *Ibid.*, s. 91.

Selling without leave any horse drilled and approved for any troop, &c.

103. Any officer, non-commissioned officer, or man of any volunteer company of cavalry or field artillery, who, without the consent of the commanding-officer of such company, sells or disposes of any horse which has been drilled for the purposes of such company, or which he has undertaken to furnish for such purposes, and which has been approved by the commanding officer of the company, shall thereby incur a penalty of twenty dollars for each offence. *Ibid.*, s. 92.

Unlawfully disposing of arms, &c.

104. Any person who unlawfully disposes of or removes any arms, accoutrements, or other articles belonging to the Crown, or who refuses to deliver up the same when lawfully required, or has the same in his possession, except for lawful cause, (the proof of which shall lie upon him,) shall thereby incur a penalty of twenty dollars for each offence; but this shall not prevent such offender from being indicted and punished for any greater offence if the facts amount to such, instead of being subjected to the penalty aforesaid; and any person charged with any Act subjecting him to the penalty imposed by this section may be arrested by order of the magistrate before whom the complaint is made, upon affidavit showing that there is reason to believe that such person is about to leave the province, carrying any such arms, accoutrements or articles with him. *Ibid.*, s. 93.

Not to prevent indictment.

Arrest of offender about to leave the province.

105. Any officer or man of a volunteer militia company, who, when such company is lawfully called upon to act in aid of the civil power, refuses or neglects to go out with such company, or to obey any lawful order of his superior officer or of any magistrate, shall thereby incur a penalty of twenty dollars for each offence. *Ibid.*, s. 94.

Volunteers refusing to turn out in aid of civil power.

106. Any inhabitant householder, who refuses or neglects to receive any troops or militia billeted upon him, or to furnish them with the lodging and articles which he is by this Act required to furnish, shall thereby incur a penalty of eight dollars for each offence. *Ibid.*, s. 95.

Refusing to receive militia billeted.

107. Any person lawfully required under this Act to furnish any carriage, horse, or ox, for the conveyance or use of any troops or militia, who neglects or refuses to furnish the same, shall thereby incur a penalty of eight dollars for each such offence. *Ibid.*, s. 96.

Refusing to furnish carriages, &c., when lawfully required.

108. Any person lawfully required under this Act to furnish any railway car or engine, boat or other craft, for the conveyance or use of any troops or militia, who neglects or refuses to furnish the same, shall thereby incur a penalty of twenty dollars for each such offence. *Ibid.*, s. 97.

Or any car, engine, boat, or craft.

109. Any person who wilfully contravenes any enactment of this Act, when no other penalty is imposed for such contravention, shall thereby incur a penalty of twenty dollars for each offence, but this shall not prevent his being indicted and punished for any greater offence if the facts amount to such. *Ibid.*, s. 98.

Contravening this Act where no other penalty is provided.

110. All penalties incurred under this Act or under any regulations, orders, or articles of engagement lawfully made or entered into under it, shall be recoverable, with costs, on the evidence of one credible witness, on complaint or information before one justice of the peace if the amount do not exceed twenty dollars, and before two justices of the peace if the amount exceeds that sum; and to the recovery of such penalties all the provisions of any law then in force relative to the performance of the duties of justices of the peace out of sessions, with respect to summary convictions and orders, shall apply in so far as may not be inconsistent with this Act; and any officer, non-commissioned officer or private of any volunteer militia company shall be a competent witness in any such case, although the penalty is applicable to the purposes of such company. *Ibid.*, s. 99.

Recovery of penalties.

111. No prosecution against an officer of militia for any penalty under this Act shall be brought except on the complaint of the adjutant-general; and no such prosecution against any non-commissioned officer, or private of the sedentary militia, shall be brought except on the complaint of the commanding-officer or adjutant of the battalion or captain of the company to which such non-commissioned officer or private belongs; and no such prosecution against any private or non-commissioned officer of a volunteer company, shall be brought except on complaint of the captain or commanding officer thereof; but the adjutant-general may authorize any officer of militia to make such complaint in his name, and the authority of any such officer alleging himself to have been so authorized to make any complaint shall not be controverted or called in question except by the adjutant-general. *Ibid.*, s. 100.

Summary proceedings: Acts to apply.

112. No such prosecution shall be commenced after the expiration of six months from the commission of the offence charged, unless it be for unlawfully buying, selling, or having in possession arms or accoutrements delivered to the militia. *Ibid.*, s. 101.

Militia officers, &c., may be witnesses.

113. No such prosecution shall be commenced after the expiration of six months from the commission of the offence charged, unless it be for unlawfully buying, selling, or having in possession arms or accoutrements delivered to the militia. *Ibid.*, s. 101.

On whose complaint penalties may be sued for.

114. No such prosecution shall be commenced after the expiration of six months from the commission of the offence charged, unless it be for unlawfully buying, selling, or having in possession arms or accoutrements delivered to the militia. *Ibid.*, s. 101.

Evidence of authority to sue.

115. No such prosecution shall be commenced after the expiration of six months from the commission of the offence charged, unless it be for unlawfully buying, selling, or having in possession arms or accoutrements delivered to the militia. *Ibid.*, s. 101.

Limitation of time for such prosecutions.

116. No such prosecution shall be commenced after the expiration of six months from the commission of the offence charged, unless it be for unlawfully buying, selling, or having in possession arms or accoutrements delivered to the militia. *Ibid.*, s. 101.

113. The penalty when recovered shall, if the offender belongs to the active or volunteer militia, be paid over to the officer commanding the company, for the purposes thereof, and shall be applied by him to such purposes and accounted for by him to the adjutant-general; and if the offender belongs to the sedentary militia, then the same shall be paid over to the assistant adjutant-general, who shall account for and pay it over to the receiver-general for the public uses of the province, and it shall make part of the consolidated revenue fund. 18 Vict. c. 77, s. 102.

Application
penalties

MISCELLANEOUS PROVISIONS.

114. It shall not be necessary that any order or notice under this Act be in writing, unless it is herein required that it shall be so, provided that it be communicated to the person who is to obey or be bound by it in person, either directly by the officer or person making or giving it, or by some other by his order. *Ibid.*, s. 103.

Orders and
notices need
not be in writ-
ing, if given in
person.

115. All general orders of militia, or other militia orders issued through or by the adjutant-general, shall be held to be sufficiently notified to all persons whom they may concern, by their insertion in the *Canada Gazette*, and a copy of the said *Gazette* purporting to contain them shall be *prima facie* evidence of such orders. *Ibid.*, s. 104.

General orders,
how notified.
Evidence.

116. All orders made by the commanding officer of a militia, regimental or battalion division, shall be held to be sufficiently notified to all persons whom it may concern, by their insertion in some newspaper published in such division, or, if there be none, then in some neighbouring division, and by posting a copy thereof on the door of the church or of some court-house, mill, or other public place, in each company division in such regimental or battalion division. *Ibid.*, s. 105.

Regimental or
battalion
orders, how
notified.

117. The production of a commission or appointment, warrant or order, in writing, purporting to be granted or made according to the provisions of this Act, shall be *prima facie* evidence of such commission or appointment, warrant or order, without proving the signature or seal thereto, or the authority of the person granting or making such commission, appointment, warrant or order. *Ibid.*, s. 106.

Evidence of
commissions,
warrants, &c.

118. Every bond to the Crown entered into by any person under the authority of this Act, or according to any general order or regulations made under it, or for the purpose of securing the payment of any sum of money, or the performance of any duty or act hereby required or authorized, before any judge or justices of the peace, or officer therein authorized to take the same, shall be valid and may be estreated or enforced accordingly. *Ibid.*, s. 107.

Bonds entered
into, in pursu-
ance of this Act,
to be valid.

119. Every sum of money which any person or corporation is under this Act liable to pay or repay to the Crown, or which is equivalent to the damages done to any arms or other property of the Crown used for militia purposes, shall be a debt due to the Crown, and may be recovered in any manner in which such debts may be recovered. *Ibid.*, s. 108.

Sum of money
payable to the
Crown under
this Act, how
recoverable.

120. Every action and prosecution against any officer or person for any thing done in pursuance of this Act shall be laid and tried in Lower Canada in the district, and in Upper Canada in the county, where the act complained of was done, and shall not be commenced after the end of six months from the doing of such act, nor until one month's notice in writing of the action and of the cause thereof has been given to the defendant; and in any such action the defendant may plead the general issue and give this Act and the special matter in evidence at the trial; and no plaintiff shall recover in any such action if a tender of sufficient amends was made before the action was brought, or if a sufficient sum of money has been paid into court by the defendant after the action was brought. *Ibid.*, s. 109.

Protection of
officers, &c., in
pursuance of
this Act.
Limitation of
action.

121. If a verdict passes for the defendant in any action referred to in the next preceding section, or the plaintiff becomes non-suit or discontinues the action after issue joined, or if on demurrer or otherwise judgment is given against the plaintiff, the defendant shall recover his full costs as between attorney and client, and shall have the same remedy therefore as any defendant hath in other cases; and, though a verdict is given for the plaintiff, he shall not have costs against the defendant, unless the judge before whom the trial has been had certifies his approbation of the action and the verdict therein. *Ibid.*, s. 110.

Tender of
amends.

If plaintiff be
non-suit, &c.

122. All sums of money required to defray any expense authorized by this Act may be paid out of the consolidated revenue fund of this province, upon warrant directed by the Governor to the Receiver General; and such warrants may be made in favour of the adjutant-general of militia, to enable him to pay such expense, or in favour of the party directly entitled to the money; but no sum of money shall be so paid out of the consolidated revenue fund until first approved by resolution of the Legislative Assembly in the annual estimates. *Ibid.*, s. 111.

No costs against
defendant
except with
approval of
judge.

Payment of
money under
this Act.

Proviso.

123. A detailed account of all moneys advanced or expended under this Act shall be laid before each branch of the provincial Parliament within fifteen days after the opening of the then next session thereof. *Ibid.*, s. 112.

Accounting to
Parliament.

124. The Interpretation Act shall apply to all regulations, orders, and articles of engagement lawfully made or entered into under this Act. *Ibid.*, s. 114.

Interpretation.

125. The word "corps" shall, for the purposes of this Act, include any field battery, troop of cavalry, foot company of artillery or rifle company, or any battalion or regiment. 22 Vict. (1859) c. 18, s. 20.

Interpretation
clause.

126. The Acts 9 Vict. c. 28, 13 & 14 Vict. c. 11, 4 & 5 Vict. c. 2, 12 Vict. c. 88, & 12 Vict. c. 89, having been repealed by the Act 18 Vict. c. 77, all Acts and laws repealed by the said Acts or any of them shall nevertheless remain repealed; and all offences committed against them or any of them before the said Act 18 Vict. c. 77 came into force; shall be prosecuted and punished under the said Acts and laws which shall remain in force as to such offences. 18 Vict. c. 77, s. 1.

Things done
under Acts
repealed.

An Act to amend the Act respecting the Militia.

Whereas it is expedient to make the following provisions in amendment of chapter 35 of the Consolidated Statutes of Canada, intituled "An Act respecting the Militia," therefore Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:—

1. The following paragraph shall be added to the 20th section of the said Act, and shall make part thereof:—

"The commander-in-chief may, whenever he deems it necessary, order that a corrected roll of every company of the sedentary militia be made out; and it shall be the duty of every officer commanding a company, within ten days after such order has been received, to make out such corrected roll and to cause a copy thereof to be transmitted as provided by the foregoing provisions of this section."

2. The 22d section of the said Act is hereby repealed, and the following section shall be substituted for it, and bear the same number:—

"22. The active militia of the province, in time of peace, shall consist of volunteer troops of cavalry, military train, field batteries of artillery, garrison batteries of artillery, companies of engineers, and companies of infantry, and marine and naval companies, to be armed and equipped according to their respective services, and to be formed at such places and in such manner as may from time to time be designated or ordered by the commander-in-chief; but except as herein-after provided the total strength of such volunteer corps shall not exceed 10,000 officers and men in class A."

3. The following paragraph shall be added to the 31st section of the said Act, and shall make part thereof:—

"3. Each volunteer militiaman shall, in the discretion of the commander-in-chief be supplied with uniform clothing while on drill or service, or receive such sum not exceeding six dollars per annum in lieu thereof, as may be directed by the commander-in-chief; such clothing or money to be delivered to the non-commissioned officers and privates, on such conditions and upon such security as the commander-in-chief may direct; and in all cases, uniforms, arms, and accoutrements, the property of the officers of battalions or companies, issued prior or subsequently to the passing of this Act, shall be received, held, preserved, and recovered in all respects, as if the same were the property of the Crown, and shall have all the privileges incidental thereto."

4. The 32d section of the said Act is hereby repealed, and the following substituted for it:—

"All arms lent by the Imperial Government to the province, and all accoutrements furnished by the Province, and distributed to the officers and men of the active and volunteer militia shall be accounted for by those who have received them; and in those localities where there are no public armouries, the commander-in-chief may prescribe such precautionary measures as he deems expedient for the safe keeping and in good order of such arms and accoutrements, and for the re-delivery thereof to such officer as may be appointed to receive them, whenever the commander-in-chief for any purpose directs such re-delivery."

5. The commander-in-chief may appoint brigade majors not exceeding one for each military district, and may from time to time regulate and prescribe their duties.

Each of the said brigade majors shall be paid by the province at a rate not exceeding 600 dollars per annum, and travelling expenses.

6. The 40th section of the said Act is hereby repealed, and the following section shall be substituted for it and bear the same number:—

"40. The non-commissioned officers and men of the active militia (Class A) shall be paid for each day of actual and *bonâ fide* drill (not exceeding 12 in number) the sum of 50 cents per diem, and a further sum of 1 dollar per diem for each horse actually and necessarily present belonging to and used for such drill by such non-commissioned officers and men."

"2. Notwithstanding anything contained in the 38th section of this Act, such days of drill need not be consecutive, unless so ordered by the commander-in-chief, who may also determine the manner in which such number of days of drill shall be computed."

7. The 43d section of the said Act is hereby repealed, and the following section shall be substituted for it, and bear the same number:—

"43. Each serjeant-major of a volunteer field battery of artillery shall, on account of the great responsibility attached to the office, be paid by the province, at the rate of 200 dollars per annum; and the commander-in-chief may from time to time appoint musketry instructors, non-commissioned officers or other competent persons to be employed in drilling and instructing the officers, non-commissioned officers and men in the several corps of active and sedentary militia;

"Each of such musketry instructors, non-commissioned officers and other competent persons so employed, shall be paid by the province at a rate not exceeding 1 dollar and 50 cents per diem when so employed."

8. The active militia shall be paid on such proof of the performance of drill required by the said Act, at such times and in such manner as the commander-in-chief may from time to time direct.

9. In the time of active service in the field, and whenever the militia or any part thereof shall be called out by reason of invasion, insurrection, or imminent danger thereof, the officers, non-commis-

stoned officers, and men of the militia so called out for active service shall be paid at such rates of daily pay, and shall receive such allowances in every respect, as are paid and allowed to officers and men of the relative and corresponding rank or grade in Her Majesty's army.

CORPS FOR GENERAL SERVICE.

10. The commander-in-chief may, in the event of war, raise, in addition to the active and sedentary militia of the province, regiments of militia by voluntary enlistment for general service during such war, and for a reasonable time after its termination; such regiments to be subject to all the provisions of the said Act respecting the militia as hereby amended.

DRILL ASSOCIATIONS.

11. The commander-in-chief may sanction the organization of associations for purposes of drill, and of independent companies of infantry composed of professors, masters, or pupils of universities, schools, or other public institutions, or of persons engaged in or about the same, or of reserve men, but such associations or companies shall not be provided with any clothing or allowance therefor, nor shall they receive pay.

12. This Act shall be construed as forming one Act with the said Act respecting the militia, and all words and expressions in this Act shall have the same meaning as they have in the said Act.

Enclosure 3 in No. 2.

Encl. 3 in
No. 2.

REPORT of the Commissioners appointed to report a Plan for the better Organization of the Department of Adjutant General of Militia, and the best means of Re-organising the Militia of this Province, and to prepare a Bill thereon.

To his Excellency the Governor General.

We, your Excellency's commissioners appointed, firstly, to report a plan for the better organization of the department of adjutant general of militia; secondly, to investigate and report upon the best means of reorganizing the militia of this province, and of providing an efficient and economical system for the defence of the province; and, thirdly, to prepare a bill or bills on the subjects herein-before mentioned respectively, with a view to submission of the same to Parliament at its next session, do most respectfully report to your Excellency, as follows:—

ORGANIZATION OF DEPARTMENT OF ADJUTANT GENERAL OF MILITIA.

1. We recommend that the department of adjutant general of militia shall consist of an adjutant general, two deputy adjutants general, a paymaster, and a sufficient staff of clerks.

Adjutant
General's de-
partment,
Inspectors of
militia.

2. That the general commanding Her Majesty's troops in Canada shall from time to time, as circumstances may require, be requested to nominate officers of the regular service to inspect the active militia, and that such officers shall receive, while so employed, the allowances provided by the present law.

REORGANIZATION OF MILITIA.

Preamble.

3. In framing our recommendations as to the best means of re-organizing the militia of Canada we have taken for the groundwork of our considerations the following facts, which must be self-evident to all who consider the circumstances and position of the province.

Ground work
of considera-
tions.

4. Firstly, that Canada presents a frontier, upwards of 1,000 miles in extent, assailable by land or water at every point.

Extent of
frontier.

5. Secondly, that she possesses a population amounting to little more than 2,500,000 souls (less than the population of London), thinly but unevenly scattered throughout her full extent.

Population

6. Thirdly, that the adjoining country is powerful,—contains a population vastly superior in numbers to that of Canada,—possesses great resources, and abounds with excellent means of communication, both by land and water, diverging from the heart of the nation, and leading to all the most vulnerable points on the frontier of this province.

Neighbouring
country.

7. Fourthly, that as the revenue of a country must depend in a very great degree upon the amount of her population, the extent of the frontier in this province to be defended must necessarily be disproportioned to her income.

Revenue small.

Amount of Force required.

8. In order to provide an efficient force for the defence of the province, we are of opinion that a far greater number of trained men will be required than have hitherto been sanctioned, and recommend the organization of an active force amounting to about 50,000 men of all arms, with a reserve of the same number. A reference to the map of Canada will, we think, clearly point out that even this number of men would be insufficient without the co-operation of a strong body of regular troops and a powerful fleet of gun boats on the lakes.

50,000 men
required.

Composition of Force.

Volunteer and
regular militia.

9. We are of opinion that the proposed force should consist of the volunteer militia corps of the great cities, and of active battalions of regular militia to be raised in the rural districts; a proportion of artillery and cavalry being distributed throughout the force.

On the Battalion System.

Infantry to be
organized in
battalions.
Reasons.

10. For the following reasons we consider that the infantry should in all cases be organized in complete battalions.

11. It appears that the failures and disasters of armies composed of irregular troops have generally arisen, not from a want of courage or of drill amongst the private soldiers, but from a want of discipline throughout the entire body.

12. The discipline of an army, we consider, consists, in a downward direction, of a perfect system of circulating orders, and a complete chain of mutual responsibility by which these orders are carried out. In an upward direction it consists of the habit acquired by the individuals composing a large body of depending with confidence upon and acting implicitly under the orders of one directing mind.

13. We think that the habit of command, of circulating orders, and of carrying out the system of mutual responsibility, can only be acquired by great practice.

14. That confidence in superior command and in the system of mutual responsibility is the result of an intimate knowledge of the system, and a conviction that the machinery by which it is worked is in perfect order. This knowledge, however, is not, in our opinion, sufficient. Discipline, we consider, must be acquired by long habit, or it will not stand the test of active service, where excitement and danger so often deprive the mind of its ordinary functions.

15. Generals of disciplined troops move their armies into action with confidence and freedom, for they know by their system of discipline they can "keep them in hand," and trust to them in the hour of danger and excitement.

16. We do not think that discipline and mutual confidence, which are so essential to the organization of an army, could exist to any great extent in a body composed of independent companies.

17. Even were these independent companies formed into battalions for service, we think that captains who had been accustomed to be independent would never submit with confidence to strange lieutenant-colonels, nor would lieutenant-colonels have confidence in independent captains unused to submit to discipline. The necessary chain of mutual responsibility would be untested, the lieutenant-colonels themselves would be unpractised, and the whole organization would produce but little confidence in the mind of a general.

18. We consider, moreover, that esprit de corps is as essential to success in the organization of a militia force as discipline.

19. For these reasons we recommend that the whole force of volunteer and regular militia infantry of the province be formed in complete battalions, and that the people of each locality be encouraged by the nature of the organization to feel an interest and a pride in their own trained battalions.

Regular Militia.

Military districts.

20. We recommend that the province be divided into such "military districts" as the commander-in-chief may from time to time direct.

Regimental districts.

21. That each military district be divided into "regimental divisions."

Sedentary battalion divisions.

22. That in order to facilitate the enrolment, relief, and reinforcement of an active force, each regimental division be divided into "sedentary battalion divisions," and be subdivided into "sedentary company divisions."

Active battalions.

23. That each regimental division shall furnish one active and one reserve battalion, to be taken as nearly as practicable in equal proportions from the male population of such division, between the ages of 18 and 45.

Active company division.

24. That each company of an active battalion, together with its corresponding reserve company, be taken from within the limits of a defined territorial division, the boundary of which shall be identical with that of a sedentary battalion division, or of a distinct portion of such division.

Sedentary battalion divisions to be made to correspond with active company divisions.

25. That in order to accommodate the sedentary battalion divisions to the organization of the active battalions, the limits of the former be, where necessary, re-arranged.

Cities to be military districts, and furnish volunteer or regular militia.

Volunteer Militia.

26. We recommend that each of the principal cities of the province, namely, Quebec, Montreal, Ottawa, Kingston, Toronto, Hamilton, and London, with such portions of the surrounding country as may from time to time be added to them by the commander-in-chief, shall constitute a military district to be divided into regimental and sedentary battalion divisions, as herein-before detailed; that they be allowed to furnish volunteer militia of the three arms in the proportions herein-after detailed in lieu of active battalions of regular militia. In the event of these cities failing to furnish their full complement of volunteers, they shall in part, or altogether, fall under the general regulations of the regular militia, in such manner as the commander-in-chief shall direct.

Number of regiments.

27. That all the regiments of volunteer and regular militia shall be numbered from one upwards, the numbers to be drawn by lot.

Retired

Retired List

28. We recommend that all officers of the active or reserve corps who have arrived at the following ages in each rank respectively, and all officers of those corps who may hereafter arrive at those ages, in each rank, may be placed on the retired list, receiving a step of honorary rank :

Field officers, under the rank of colonel, at 60.
Captains and subalterns, at 50.

29. That all men above the age of 45, not being officers, who shall claim exemption on account of age, shall be considered on the retired list, non-commissioned officers retaining their rank.

30. That officers and men of the retired list under the age of 60 may be required to serve in cases of great emergency, but above that age that they be liable to serve only in case of a *levée en masse*.

Permanent Staff.

31. We recommend that a permanent staff be allowed to each city furnishing volunteer militia, consisting of one town adjutant and one staff sergeant-major to each battalion.

32. That the town adjutant shall be under the orders of the colonel of the district; shall have general superintendence over the armouries and stores, and have control over the staff sergeant-majors of battalions; shall make out all returns, certificates, rolls, &c. that may be required; shall undertake the official correspondence relating both to the sedentary and active militia of the district; shall carry out the instructions of the colonel of the district with respect to the drill and instruction of the officers, non-commissioned officers, and men of the volunteer and regular militia at all times of the year, and shall act as paymaster of all the corps in the district.

33. That a permanent staff be allowed to each active battalion of regular militia consisting of one adjutant and one staff sergeant-major.

34. That the adjutant of an active battalion of regular militia shall have charge of all arms, clothing, ammunition, books, rolls, &c. belonging to the entire active force, within the regimental division to which his battalion belongs; shall be responsible that all vacancies in the active field batteries, troops, or companies are filled up as they occur; shall undertake the official correspondence relating both to the sedentary and active militia of his division; he shall be instructed to encourage the officers, non-commissioned officers, and privates of his corps to drill and practise with the rifle in their leisure hours throughout the year; and afford every assistance in his power to any young men who may wish to qualify themselves as officers, or to receive military instruction; and shall also act as paymaster of his regimental division.

35. That the staff sergeant majors under the control of the adjutant shall have the immediate charge of the arms, accoutrements, knapsacks, &c. of their battalions and of the field batteries or troops attached to them; shall be employed in drilling and instructing the officers, non-commissioned officers, and men of their respective corps, and shall act as clerks to the adjutants.

36. That the permanent staff be appointed by the commander-in-chief, who shall have the power of removing at pleasure any officer or non-commissioned officer of such staff.

37. That the officers and non-commissioned officers of the permanent staff shall be appointed for three years only, at the termination of which period they will be eligible for re-appointment to a battalion in another district. The adjutants will be required always to reside in their respective regimental divisions.

Establishments of Volunteer and Regular Militia Corps.

38. We recommend that the establishment of a field battery shall be as follows :

Officers.			Non-commissioned Officers and Men.			Horses.		
Captain	-	1	Staff sergeants	-	2	Officers	-	4
1st Lieutenants	-	2	Sergeants	-	4	Sergeants	-	6
2d Lieutenant	-	1	Corporals	-	4	Trumpeter	-	1
			Bombardiers	-	4	Draught	-	36
			Gunners	-	44			
			Drivers	-	26			
			Trumpeter	-	1			
		4			85			47

On active service, a farrier, a collar maker, and a wheeler, and 16 horses, should be added to the above establishment.

39. That the establishment of a troop of cavalry shall be as follows :

Captain	-	1	Troop sergeant-major	-	1	Officers	-	3
Lieutenant	-	1	Sergeants	-	2	Non-commissioned officers	-	50
Cornet	-	1	Corporals	-	2	and privates	-	50
			Trumpeter	-	1			
			Privates	-	44			
		3			50			53

On active service, a farrier to be added to the above establishment.

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40. That

Retired

Establishment
of a battalion
of garrison
artillery, or of
infantry.

40. That the establishment of an active battalion of garrison artillery or of infantry shall be as follows :

Lieutenant-colonel	-	-	-	1	Sergeant-major	-	-	-	1
Majors	-	-	-	2	Quartermaster-sergeant	-	-	-	1
Adjutant	-	-	-	1	Hospital sergeant	-	-	-	1
Quartermaster	-	-	-	1	Drum major	-	-	-	1
Surgeon	-	-	-	1	Sergeants	-	-	-	40
Assistant surgeon	-	-	-	1	Corporals	-	-	-	40
Captains	-	-	-	10	Drummers	-	-	-	10
Lieutenants	-	-	-	10	Privates	-	-	-	710
Ensigns	-	-	-	10					
				37					804

Appointment and Promotion of Officers, and Regulations regarding them.

Officers to be
appointed by
commander-in-chief.

Efficient field
officers to be
selected.

Examination
of gentlemen
prior to ap-
pointment.

Promotion by
seniority,
subject to
examination as
to efficiency.

Existing
officers eligible
for re-appoint-
ment, if
qualified.

Fees to be paid
on appoint-
ment and pro-
motion.

41. We suggest that all officers of the volunteer and regular militia be appointed by the commander-in-chief.

42. We also recommend, with the view of ensuring the efficiency of corps of the volunteer and active regular militia, that field officers be selected who have served in the regular army, or who have acquired a sufficient knowledge of all military duties, according to the present system; their efficiency to be practically tested prior to their appointment.

43. That all gentlemen and officers desiring to hold commissions in the active force below the rank of field officers be required to pass a practical military examination before a board consisting of three officers, one being a field officer, prior to their appointment to the militia, and that in the first formation of the militia the officers of the board shall be selected from the regular service.

44. We also recommend that promotion, as a general rule, shall take place by seniority; this general rule being always subject to such deviations and exceptions as the commander-in-chief may think proper to make, on account of inefficiency, misconduct, or other causes of irregularity; all officers under the rank of field officers in the active force to be required to pass a practical military examination before a board consisting of three officers, one of them being a field officer, prior to their promotion; provided also, that the commander-in-chief shall have the power to promote any officer, out of his turn, for distinguished gallantry in the field, or marked military capacity.

45. That all officers holding commissions in the sedentary militia, not above the superannuating ages herein-before suggested, and who may please to qualify themselves, shall be eligible for appointment to the active militia; it being understood that they shall not be required to accept a lower grade or rank than that which they hold in the sedentary militia, unless at their own request.

46. That all officers of the volunteer and regular militia shall be required to pay the following fees on appointment and promotion :—

	On appointment.	On promotion.
Ensigns or cornets	\$5	
Lieutenants	6	\$1
Captains	8	2
Majors	9	1
Lieutenant-colonels	10	1
Colonels of districts	20	10

Staff officers according to their relative rank.

Method of raising Volunteer and Regular Militia, and conditions.

Maintaining
volunteer
militia.

Enrolment
of active
militia.

Active force to
be taken from
unmarried
men, &c.

Substitutes
may be pro-
vided.

Service of
volunteer
militia.

Service of
regular militia
in active force.

47. We recommend that the lieutenant-colonels of volunteer battalions, and the captains of volunteer field batteries and troops of cavalry, shall be held responsible that their corps are kept up to their full strength, and in the event of their failing to maintain their complement of men, or of their corps becoming inefficient, the commander-in-chief shall have the power of disbanding them.

48. That the active force be raised either by "voluntary enlistment," by "selection," by "ballot," or by a combination of voluntary enlistment and the ballot. The following method may be adopted in raising the militia: the captain of each sedentary company having assembled all the men between the ages of 18 and 45 belonging to his company division, will call upon them to give the number required voluntarily; but if volunteers do not come forward in sufficient numbers, he will inform the men that it is his duty to fill up the number by ballot, unless a majority of two thirds prefers that he select men for the active force from amongst them, in which case it will become his duty to make his selection in such a manner as to make the pressure bear upon the families who are best able to support it. If there is not a majority of two thirds of the men in favour of the selection by the captain, he shall at once proceed with the ballot.

49. That in the event of the ballot being adopted the active force be taken, in the first place, from amongst the unmarried men and widowers without children.

50. That men taken by ballot for the regular militia shall be allowed to provide substitutes, subject to the approval of the commanding officer of the corps, or to pay the sum of \$30 for exemption from service for three years.

51. That men of the volunteer militia shall be enrolled for a period of five years.

52. That men of the regular militia shall serve three years in the active force.

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53. That men of the regular militia shall, at the expiration of their term of service in the active force, pass into the reserve force, and continue to be enrolled in that force, for a further period of three years.

54. That the sergeants of the volunteer and regular militia be encouraged, at the expiration of their first terms of service in the active force, to re-engage for a further period of five years in the volunteer militia or seven years in the regular militia, receiving at the expiration of 10 years service in the active force a gratuity of \$40; and that any sergeant who may retire at the expiration of his first term of service may be replaced by any corporal who has completed his first period of service, such promoted corporal to receive the same grant at the expiration of his 10 years service. It being always understood that the above-mentioned re-engagements, in both cases, shall be subject to the approval of the commanding officer of the corps.

55. That any man desiring to change his residence to another regimental division shall communicate his intention to the commanding officer of his corps, and shall obtain from him a certificate of service, a duplicate of which shall be sent to the commanding officer of the regimental division to which the man is removed, and he will be called upon to complete his term of service in that division. Should he fail to present himself at the first muster in the battalion to which he is removed, he shall (unless he can satisfactorily account for his absence) be liable to be drafted for a full period of service, without reference to his former service.

56. That any man who may require to leave the country shall also obtain from his commanding officer a certificate of service, and, should he return within a period of 10 years, he may, on production of such certificate, be allowed to complete his period of service, otherwise he shall be liable to be drafted for a full period.

57. That all men who shall have completed their three years service in the active force and three years in the reserve force shall be placed at the bottom of the list of men between 18 and 45 years of age in the regimental division, and shall not be liable again to be drafted until every man above them on the list shall have served. Each man at the expiration of his service shall be furnished with a certificate of service.

58. That the volunteer and active regular militia be called out for training every year. And that the volunteer and regular militia be liable to be called out in case of war or disturbance, or any emergency that may arise, to serve either within or without the province; the volunteers and active battalions being always the first to take the field, the reserve next, and then additional active battalions to be raised from the sedentary militia.

59. That all vacancies in the active battalions be filled up as they occur.

60. That in time of war no man shall be required to serve in the field continuously for a longer period than one year; the reliefs to be made by drafts from the regimental division, or by complete battalions, as may be found most expedient at the time; but that any man who volunteers to serve for the war shall be compelled to fulfil his engagement.

61. That it shall, nevertheless, be left to the discretion of the commander-in-chief, in cases of unavoidable necessity, to call upon any volunteer or regular militiaman to continue to serve beyond his period of general service, or beyond his one year's service in the field, for any period not exceeding six months.

Pay.

62. We recommend that the town adjutants and regular militia adjutants receive pay at the rate of \$2 a day, and an allowance of 50 cents a day for travelling expenses and forage for a horse. That the staff sergeants receive pay at the rate of \$300 a year.

63. That the officers of the volunteer and regular militia corps receive a uniform rate of pay at \$1 a day, and the non-commissioned officers and privates a uniform rate of pay at 50 cents a day, during their period of training. That the officers, non-commissioned officers, and privates of the field batteries and troops of cavalry receive, in addition to their pay, an allowance of \$1 a day for their horses during the period of their training.

64. That when called out in aid of the civil power the officers shall receive the same pay as officers in the regular service. That the non-commissioned officers and men receive pay at the rate of \$1 a day, and shall also be provided with lodgings by the municipality requiring their services.

65. That on active service in the field the officers, non-commissioned officers, and men of the volunteer and active militia receive the same rates of pay and allowances in every respect as in the regular service.

66. That the permanent adjutants receive a sufficient contingent allowance to cover the expenses of postage and stationery, and that one adjutant in each military district shall receive an additional allowance to cover expenses incurred in postage and stationery by the colonel commanding the district.

Arms, Equipment, and Clothing.

67. We recommend that the volunteer and regular militia artillery be provided with field guns, harness, saddlery, &c., that both gunners and drivers be furnished with swords, and that 12 short Enfield rifles be allowed to each field battery.

68. That the cavalry be armed with swords and carbines, and be provided with saddlery, valises, and cloaks.

69. That the volunteer and regular militia garrison artillery and infantry be armed with rifles of the latest pattern, and be furnished with accoutrements, knapsacks, and great-coats.

70. That each volunteer militiaman shall receive an allowance of \$3 a year in lieu of clothing.

71. That the regular militiamen be supplied with clothing while on drill or service.

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72. That

Service of regular militia in reserve force.

Sergeants may re-engage for a second period of service.

Volunteer or regular militia men changing residence.

Volunteer or regular militia men leaving the country.

Procedure at expiration of three years service.

Liability to be called out for training and service.

Vacancies to be filled up as they occur.

Period of active service in the field limited to one year.

Power of commander-in-chief to retain volunteers or militia men after expiration of service.

Pay of permanent staff.

Pay of volunteer and regular militia corps during training.

Pay when in aid of civil power.

Pay on active service.

Contingent allowance to adjutants.

Arms, &c. of field batteries.

Arms, &c., of cavalry.

Arms of garrison artillery and infantry.

Clothing of volunteer militia.

Clothing of militia.

53. That

Articles to be kept in store.

72. That the arms, accoutrements, knapsacks, and great-coats of all corps be kept in store, and moreover that the clothing of the regular militia be also kept in store; these articles to be served out to the men when it is deemed expedient by order of the commanding officer.

Pioneers' tools.

73. That a complete set of pioneers' tools and implements be kept in each regimental store.

Drums and bugles.

74. That a sufficient supply of drums and bugles be obtained for the use of the militia.

Training and Muster.

Reason for training.

75. That every active battalion be called out for training at the most convenient time in each year.

Number of days training.

76. That the usual period for training be 28 days; that it shall never be less than 14, with 14 days additional drill for recruits who have not been present at any former training.

Training of reserve force.

77. That it shall be in the power of the commander-in-chief to call out the reserve force for six days training in each year.

Inspection of militia.

78. That every corps of active militia be inspected, during its period of training, by such officer as the commander-in-chief may appoint.

Militia corps to be encamped during training.

79. That militia corps be encamped, when practicable, during their period of training, and that the men be encouraged to mess together and procure their provisions by contract, camp kettles being provided for their use.

Training of volunteer militia.

80. That the volunteer militia shall be required to drill for the same number of days as the regular militia, receiving the same rate of pay during their period of training. But as the composition of these corps will be different from that of the regular militia, we recommend that the period of drill may be divided, at the discretion of the commander-in-chief, to suit the convenience of the volunteers. But to ensure the corps being properly trained to battalion movements, we recommend that a certain number of days drill be always consecutive, and in the summer months.

Muster of sedentary militia.

81. That an annual muster of the sedentary militia shall take place, and that absentees shall be called upon to pay a moderate commutation in case of non-attendance.

Drill Grounds.—Armories and Stores.

Drill ground and store, &c. for volunteer.

82. That a drill ground be provided in, or in the vicinity of each city that furnishes volunteer militia, and that a suitable building be provided, containing an armory, magazine, store rooms, orderly room, gun sheds, &c., the arms and stores of each battalion being kept separately in charge of a staff sergeant major. This building to be enclosed within a wall capable of defence against sudden attack.

Drill ground and store, &c. for militia.

83. That a suitable drill ground be provided in some advantageous central position in each regimental division, and that a stone or brick building be erected on the drill ground, containing a store, armory, magazine, orderly room, shifting room, and quarters for the serjeant major; this building to be enclosed within a stone or brick wall capable of defence against sudden attack, and that gun sheds and stores for saddlery be added where required.

Sites to be approved of by commander-in-chief.

84. That the selection of the site for these drill grounds and buildings be subject to the approval of the commander-in-chief.

Registration of Seafaring Men.

Registration of seafaring men.

85. That all seafaring men, and sailors on our inland waters, actually employed in their calling, and who shall on that account claim exemption from militia service, shall be registered; and that they shall be trained to the exercise of guns of heavy calibre during the winter months, and that for this purpose marine companies shall be formed at such places as the commander-in-chief may direct.

General Distribution of Volunteer and Regular Militia Force in Canada.

86. We propose that the volunteer and regular militia force shall be raised throughout the province in the following proportions:

VOLUNTEER MILITIA IN UPPER CANADA.

Cities and Districts.	Field Batteries, 85 strong.	Troops, Cavalry, 50 strong.	Battalion Garrison Artillery, 804 strong.	Battalion Infantry, 804 strong.	Total Strength.
Ottawa	1	—	—	$\frac{1}{2}$	489
Kingston	1	1	—	$\frac{1}{2}$	539
Toronto	1	1	1	1	1,743
Hamilton	1	—	—	1	889
London	1	—	—	$\frac{1}{2}$	489
Total Volunteer Force in Upper Canada	5	2	1	3 $\frac{1}{2}$	4,149

REGULAR

REGULAR MILITIA IN UPPER CANADA.

Cities and Districts.	Field Batteries, 85 strong.	Troops, Cavalry, 50 strong.	Battalion (Harrison Artillery, 804 strong.	Battalion Infantry, 804 strong.	Total Strength.
Military District :					
No. 1	—	—	—	2	1,608
No. 2	1	2	1	1	1,793
No. 3	—	1	1	2	2,462
No. 4	—	1	—	3	2,462
No. 5	—	1	—	4	3,266
No. 6	—	1	—	6	4,874
No. 7	1	3	1	2	2,647
No. 8	—	3	1	3	3,366
No. 9	—	2	—	1	904
Total Military in Upper Canada	2	14	3	24	23,382
Add Volunteers in Upper Canada	5	2	1	3½	4,119
Total Force in Upper Canada	7	16	5	27½	27,531

VOLUNTEER MILITIA IN LOWER CANADA.

Quebec	1	1	1	1	1,743
Montreal	1	2	1	3	3,401
Total Volunteer Force in Lower Canada	2	3	2	4	5,144

REGULAR MILITIA IN LOWER CANADA.

Military District :					
No. 1*	—	—	—	—	—
No. 2	—	—	—	2	1,608
No. 3	—	2	—	2	1,708
No. 4	—	—	—	1	804
No. 5	—	—	—	3	2,412
No. 6	—	2	1	2	2,512
No. 7	—	—	—	2	1,608
No. 8	—	—	—	3	2,412
No. 9	—	1	—	3	2,462
No. 10	1	3	—	2	1,843
Total Militia in Lower Canada	1	8	1	20	17,369
Add Volunteers in Lower Canada	2	3	2	4	5,144
Total Force in Lower Canada	3	11	3	24	22,513

* No. 1 Military District will furnish no men for the active force, but will be expected to register a large proportion of non-faring men.

REGULAR AND VOLUNTEER MILITIA.

Force in Upper Canada	7	16	5	27½	27,531
Do. Lower Canada	3	11	3	24	22,513
Total Force in Province	10	27	8	51½	50,044
Add Reserve	10	27	8	51½	50,044

Practice and Service Ammunition.

87. That all corps of volunteer and regular militia be furnished with a sufficient quantity of blank and ball practice ammunition, and that a supply of 10 rounds of service ammunition, per man, be deposited in each regimental magazine.

Privileges of Volunteer and Regular Militia.

88. That the arms and accoutrements of the officers and men of the volunteer and regular militia, and the horses used by them as such, shall be exempt from seizure in execution, and from distress and assessment.

89. That the officers, non-commissioned officers, and men of the volunteer and regular militia, shall, while on drill or service, be exempt from serving as jurors or constables.

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OFFENCES

Exemption of
arms, horses,
&c. from
seizure.
Exemptions in
favour of
volunteers.

OFFENCES AND PENALTIES.

Imprisonment
in case of
default of pay-
ment of fine.
Militia subject
to articles of
war.

90. We recommend that any person who shall fail to pay any fine awarded to him as a penalty for any offence against the Militia Law shall be liable to imprisonment.

91. That the militia, when called out for training, service, or in aid of civil power, and every officer or man belonging to it, shall from the time he has been ordered, taken, or drafted for such services, be subject to the Articles of War and to the Act for punishing mutiny and desertion, and all other laws then applicable to Her Majesty's troops in this province, and not inconsistent with this Act; except that no militiaman shall be subject to any corporal punishment except death or imprisonment for any contravention of such laws, and except also that the commander-in-chief may direct that any provisions of the said laws shall not apply to the militia.

Working of the System.

Active force to
assemble for
active service.

92. In the event of war, the proposed system would work in the following manner: the active force consisting of volunteer and regular militia would at once be assembled and encamped on their respective drill grounds, and the deputy-assistant quartermasters general would make the necessary arrangements as to transport, &c. for the movement of their corps.

Calling out of
second battal-
ions in time of
war.

93. In a militia regimental division, the active battalion being ordered to take the field, the reserve battalion would at once be assembled at the regimental drill ground; the arms, accoutrements, clothing, &c. taken from the armoury and stores by the first battalion would be replaced by equal numbers from the main arsenals and stores of the province for the use of the reserve battalion. The reserve battalions, if required to take the field, would be replaced by additional active battalions, to be raised from the sedentary militia. Under some circumstances it would only be necessary to assemble a portion of a battalion in the division as a depot for those on service.

Quartermaster General's Department.

Deputy
assistant quar-
termaster,
general.

94. That a deputy assistant quartermaster general be appointed in each district, who shall, in case of impending war, be called upon to make out tables of the resources of his district, showing also the situation of all forges, bakeries, stores, &c.; and he shall be prepared to collect any transport that may be required to move the active force of his district when required for service.

Colonels of Districts.

Colonels of
districts.

95. That a colonel be appointed to command each military district, through whom all communica- tions shall pass relating to corps under his command.

Active Service Roll.

Militiaman to
sign service
roll.

96. That every volunteer and regular militiaman be required to sign a service roll, in which the conditions of his service shall be stated.

Exemptions.

Exemptions to
be few.

97. We recommend that the exemptions from militia service be as few as possible.

Corps for General Service.

General
service corps.

98. That in addition to the volunteer and regular militia of the province, in the event of war, the commander-in-chief shall have the power to raise regiments of militia by voluntary enlistment for general service during such war, and for a reasonable time after its termination.

General System of Defence.

Strategic
defence and
forts not
mentioned.

99. We, your Excellency's Commissioners, have abstained from offering any direct recommenda- tions regarding the general strategic defence of the province, or the defence of certain points by per- manent fortifications, as we consider the former subject comes more especially within the province of the General Commanding Her Majesty's forces. And we have been given to understand that a separate commission has been employed to investigate the latter important subject. We have, never- theless, in arranging our proposed distribution of the three arms of the service, kept in view the nature of the defence that would be required in the different districts. We have, moreover, in our calculation of numbers, been strongly influenced by the conviction that, in the event of war with the neighbouring country, no defence could be effectual unless the lakes were held by a powerful force of gun boats.

We submit the draft of a bill in accordance with the foregoing Report, and submit the same for Your Excellency's consideration.

GEO. ET. CARTIER.
JOHN A. MACDONALD.
A. T. GALT.
ALLAN N. MACNAB.
E. P. TACHÉ.
D. LYSONS, Colonel.
T. E. CAMPBELL.
A. CAMERON.

Tuos. WILY,
Secretary.
Quebec, March 15, 1862.

Enclosure 4 in No. 2.

BILL.

AN ACT respecting the MILITIA.

HER MAJESTY, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:—

1. The thirty-fifth chapter of the Consolidated Statutes of Canada, intituled "An Act respecting the Militia," is hereby repealed, but such repeal shall not revive any Act or parts of an Act, or any provision of law repealed by the said Act; nor shall the said repeal apply to or affect any transaction, matter, or thing, or to any commission granted or issued prior to the said repeal.

COMMANDER-IN-CHIEF.

2. The Governor shall, by virtue of his office, be Commander-in-Chief of the Militia.

DESCRIPTION OF MILITIA.

3. The militia shall consist of all the male inhabitants of the province of the age of eighteen years or upwards, and under sixty years, not exempted or disqualified by law.

4. The militia shall be divided into two classes, "The Active Militia" and "The Sedentary Militia."

5. The active militia shall be subdivided into three classes, "The Volunteer Force," "The Regular Force," and "The Reserve Force."

6. The sedentary militia shall be subdivided into two classes, "The Service Sedentary Force," and "The Retired Sedentary Force."

COMPLETE EXEMPTIONS.

7. The following persons only, between the ages of eighteen and sixty, as aforesaid, shall be exempt from enrolment and from actual service in any case:—

The Judges of the Superior Courts of Law or Equity in Upper and Lower Canada;

The Judge of the Court of Vice-Admiralty;

The Judges of the County Courts;

The clergy and ministers of all religious denominations;

The professors in any college or university, and all teachers in religious orders;

The wardens, keepers, and guards of the provincial penitentiary, and of the reformatory prisons of Upper and Lower Canada, and of the provincial lunatic asylums.

8. All persons bearing certificates from the society of Quakers, Mennonists, and Tunkers, or any inhabitant of this province, of any religious denomination, otherwise subject to military duty in time of peace, but who, from the doctrines of his religion, is averse to bearing arms and refuses personal military service, shall be exempt therefrom.

PARTIAL EXEMPTIONS.

9. And the following, though enrolled, shall be exempt from attending muster and from actual service at any time except in case of war, invasion, or insurrection:—

The retired sedentary men;

The members of the Executive and Legislative Councils;

The Members of the Legislative Assembly;

The officers of the said councils and assembly respectively;

The attorneys and solicitors general;

The provincial secretary and assistant secretaries;

All civil officers appointed to any civil office in this province under the Great Seal;

All persons lawfully authorized to practice physic or surgery;

All advocates, barristers, solicitors, and attorneys;

Notaries in Lower Canada;

Half-pay and retired officers of Her Majesty's army or navy;

Postmasters and mail carriers;

Seafaring men and sailors on the inland waters actually employed in their calling;

Masters of public and common schools actually engaged in teaching;

Ferry-men;

One miller for each run of stones in every grist mill;

Keepers of public toll gates;

Lock masters and labourers employed in attending to locks and bridges on public canals;

The engine drivers, conductors and switchmen, and other servants employed on the several railways actually in use in this province;

Jailors, constables, and officers of courts of justice, not being such solely by virtue of their being non-commissioned officers of militia;

Students attending seminaries, colleges, schools and academies, who have been attending such at least six months previous to the time at which they claim such exemption;

All persons disabled by bodily infirmity.

10. Exemptions under the ninth clause of this Act shall not prevent any person from serving, or if an officer holding a commission in the militia, if he desires it and is not disabled by bodily infirmity; and no person shall have the benefit of such exemption unless he has, at least one month before he claims such benefit, filed his claim thereto with his affidavit (made before some magistrate) or affirmation in cases where persons are allowed by law to affirm, of the facts on which he rests his claim, with the commanding officer of the company within the limits whereof he resides; and whenever exemption is claimed, whether on the ground of age or otherwise, the burden of proof shall always be upon the claimant:

(10.)

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Encl. 4 in
No. 2.

Cap. 55 of
Consolidated
Statutes of
Canada re-
pealed, saving
things and
commissions
prior.
Governor to
be commander-
in-chief of
militia.
Of whom
militia to be
composed.
Two classes
of militia.
Active militia
divided into
three classes.
Sedentary
militia divided
into two
classes.

Exemptions
from enrol-
ment and ser-
vice in any
case.

Exemptions of
persons averse
from doctrines
of religion to
bear arms.

Exemptions,
except in case
of war, &c.

Exceptions
Exemption
must be
claimed, and
how proved.

Provision as to
proof by sea-
faring men of
exemption.

Commander-in-
chief to
divide Upper
Canada and
Lower Canada
into military
districts, and
may alter same.
Colonel to be
appointed to
each military
district.

Regimental
sedentary bat-
talion and
sedentary
company divi-
sions.

Existing divi-
sions to remain
until altered.

Regimental
division to fur-
nish regular
and reserve
battalion.

Whence com-
panies of
regular and
reserve bat-
talions to be
taken.

Numbering
of volunteers,
regular and
reserve bat-
talions.

Commander-
in-chief may
place certain
officers on a
retired list, and
may give such
an honorary
rank.

And may trans-
fer retired
officers to
sedentary
militia.

Commissions
to be during
pleasure.

How non-
commissioned
officers shall
be appointed.

Officers must
be subjects of
Her Majesty.

Existing com-
missions of
officers to
remain until
cancelled; no
person bound
to serve in a
lower grade
than he has held.

Battalions em-
bodied in 1837,
1838, 1846, and
1847.

Military exami-
nation of
officers of
active militia
below rank of
field officer.

claimant: Provided that in respect to seafaring men, who may be registered in the marine militia, as required by the one hundred and thirteenth section of this Act, the production by any person therein mentioned of the certificate of registration to the commanding officer of the company, within the limits whereof he resides, shall be sufficient to exempt him for a period of twelve months from the date of such registration.

MILITIA DISTRICTS AND DIVISIONS.

11. The commander-in-chief may from time to time by any militia general order, divide Upper and Lower Canada respectively into such number of military districts as he deems expedient, and to be designated as he sees fit; and may from time to time by any militia general order, alter such division of the province into military districts, and increase or diminish the number thereof.

12. To each military district a colonel shall be appointed, who shall command the militia in such district, and all communications shall pass through him in reference to all corps and battalions within his command.

13. The commander-in-chief may from time to time, by any militia general order, divide the military districts respectively into regimental divisions, and the regimental divisions into sedentary battalion divisions, and the sedentary battalion divisions into sedentary company divisions, and may designate such divisions by such names or numbers as he sees fit.

14. All militia districts and divisions existing before the passing of this Act shall remain in force until altered under the provisions of this Act, and such of them as are allowed to remain unaltered shall be held to have been made by the proper authority under this Act, and for the purposes thereof.

15. Each regimental division shall furnish one regular battalion and one reserve battalion of active militia from the male population of such division, between the ages of eighteen and forty-five years.

16. Each company of a regular battalion and each company of a reserve battalion shall be taken from within the limits of a defined territorial division, the boundary of which shall be identical with that of a sedentary battalion division, or of a distinct portion of such division, such portion to be regulated by militia general order.

17. All volunteer and regular battalions shall be numbered from one upwards, the numbers to be drawn by lot; and all reserve battalions shall have the same numbers as the regular battalions taken from the same sedentary battalion divisions as the said reserve battalions respectively.

OFFICERS.

18. The commander-in-chief may, from time to time, place on a retired list of officers all officers who have arrived at, and whenever they may hereafter arrive at the ages in each rank as follows; that is to say, field officers under the rank of colonel, at sixty years of age, and captains and subalterns at fifty years of age; and who hold commissions in the active militia at the time of the passing of this Act, or who may hold commissions in the active militia under this Act; and the commander-in-chief may give a step of honorary rank to each such person as may be placed on the said retired list.

19. Nothing in the next preceding clause shall be held to prevent the commander in chief from transferring such retired officers to the sedentary militia, either with the service rank or the honorary rank, as he may think proper.

20. All commissions of officers in the militia shall be granted by the commander-in-chief, and during pleasure.

21. All non-commissioned officers in the militia shall be appointed by the officer commanding the corps or battalion to which they belong, and shall hold their rank during pleasure.

22. No person shall be an officer of militia unless he is one of Her Majesty's subjects by birth or naturalization.

23. Commissions in the militia and appointments of non-commissioned officers existing immediately before the passing of this Act shall remain in force, such commissions being subject to be cancelled by the Commander-in-chief, and such appointments by the officer commanding the battalion, or the same may be placed on the retired list as herein-before mentioned; but no person shall be bound to serve in the militia in a lower grade than he has once held, unless he has resigned his commission or is reduced by sentence or order of some lawful court or authority; nor shall any person who has been a non-commissioned officer in Her Majesty's army, be bound to serve in the militia in a lower grade than he held in the army, unless he had been reduced as aforesaid.

24. The next preceding section applies to and includes the battalions embodied in the years one thousand eight hundred and thirty-seven, one thousand eight hundred and thirty-eight, one thousand eight hundred and forty-six, and one thousand eight hundred and forty-seven, in the cities of Quebec and Montreal, and the said battalions are still lawfully embodied, and commissions in them are valid under the said section; and the said battalions are subject to all the provisions of this Act as sedentary militia, and may be called out as such by the Commander-in-chief.

25. No person shall be appointed or commissioned to any rank below the rank of field officer in the active militia, nor shall any officer below such rank be promoted to a higher grade or rank unless and until he shall have passed a practical military examination before, and obtained a certificate of fitness from a board to be named and appointed by the commander-in-chief, and to consist of three officers of Her Majesty's service or of the active militia, or partly of Her Majesty's service and partly of the active militia service, one of whom shall be of the rank of field officer; provided that for the period of three years after the passing of this Act, such board may consist and be composed of three officers

officers of Her Majesty's service only, of whom one shall be a field officer of the said service; and for the purpose of carrying out this section the commander-in-chief may appoint from time to time as many such boards as he may think expedient.

Formation of Board of Examination.

26. Field officers of the active militia shall be selected from amongst such persons as have served in Her Majesty's army, or of such other persons as have acquired a sufficient knowledge of all military duties, such sufficiency to be ascertained in such manner as the commander-in-chief may from time to time direct.

Field officers of active militia.

27. Commissioned officers shall be promoted from one grade or rank to another by seniority of date of commission, but in case of inefficiency, misconduct, inability to pass the military examination of the board herein-before mentioned, or other causes of irregularity, the commander-in-chief may deviate from such promotion by seniority; provided also, that the commander-in-chief may promote any officer out of his turn of seniority for distinguished gallantry in the field or for marked military capacity.

Promotion of officers, how regulated.

28. The commander-in-chief shall have full power to appoint staff officers of the active militia with such rank as he shall from time to time think requisite or necessary for the efficiency of the militia service; and any such staff officers shall have such rank and authority in the militia as are held relatively in Her Majesty's service, and their duties shall be the same for the militia as prescribed for the army by the Queen's regulations.

Appointment of staff officers and their rank

29. There shall be in and for each military district, a deputy assistant quartermaster general, whose duty it shall be to make himself thoroughly acquainted with the roads and communications and other matters appertaining to the topography of his district, and to furnish such information on the subject as may be required by the commander-in-chief, in which duty the officers of the volunteer engineer corps shall assist him with the local information they acquire.

Assistant quartermaster general

30. Any person holding or who may at any time hold a commission in the sedentary militia, and not above the age of superannuation herein-before mentioned, and not placed upon the retired list, and who shall pass the examination and obtain the certificate herein-before mentioned, may be appointed to the active militia; but no such person shall be compelled to accept a grade or rank in the active militia lower than that held by such person in the sedentary militia.

Transfer of officers from sedentary to active militia.

31. For every commission in the militia of this province, issued after the passing of this Act, there shall be paid to the adjutant general of militia the following fees, that is to say:

	On appointment.	On promotion.
Ensigns or Cornets	- 8 5	-
Lieutenants	- 6	- 1
Captains	- 8	- 2
Majors	- 9	- 1
Lieutenant-Colonels	- 10	- 1
Colonels of Districts	- 20	- 10

Fees on appointment and promotion.

And staff officers shall pay according to their relative rank; and all monies so received for commissions shall, by the adjutant general, be paid over to the receiver general, and become portion of the consolidated revenue of the province.

To be paid to consolidated revenue.

ACTIVE MILITIA.

No. 1.—THE VOLUNTEER FORCE.

32. Each of the following cities—Quebec, Montreal, Ottawa, Kingston, Toronto, Hamilton and London, with such portions of the surrounding country as may from time to time be added to them by the commander-in-chief, shall constitute a military district.

Cities to be military districts.

33. In each such military district, as last aforesaid, there shall be formed such number of volunteer militia batteries of artillery, troops of cavalry, battalions of garrison artillery, and battalions of infantry or such portions of each respectively, and of such strength as the commander-in-chief may from time to time order, the same being furnished from the male population of such division, between the ages of eighteen and forty-five years.

To furnish volunteer militia.

34. In the event of the failure, in any one or more of the military districts herein last before mentioned, either in part or altogether, to furnish the complement of volunteer militia as required by the commander-in-chief, he the said commander-in-chief may from time to time apply the provisions of this Act relative to the furnishing of regular militia to such of the said military districts as may be so incomplete.

Or in failure, then to furnish regular militia.

35. Each volunteer field battery of artillery shall consist of a captain, two first lieutenants, a second lieutenant, two staff sergeants, four sergeants, four corporals, four bombardiers, forty-four gunners, twenty-six drivers, one trumpeter, and forty-four horses; and on active service, or when authorized by the commander-in-chief, of one farrier, one collar maker, one wheeler and sixteen horses in addition thereto.

Establishment of field battery.

36. Each volunteer troop of cavalry shall consist of a captain, a lieutenant, a cornet, a troop sergeant major, two sergeants, two corporals, a trumpeter, and forty-four privates; and on active service, or when authorized by the commander in chief, a farrier in addition thereto.

Establishment of troop of cavalry.

37. Each battalion of volunteer garrison artillery and of volunteer infantry shall consist of a lieutenant-colonel, two majors, one adjutant, one quarter-master, one surgeon, one assistant surgeon, ten captains, ten lieutenants, ten ensigns, one sergeant-major, one quartermaster sergeant, one hospital sergeant, one drum-major, forty sergeants, forty corporals, ten drummers, and seven hundred and ten privates.

Establishment of a battalion of garrison artillery or of infantry.

38. Any volunteer corps may enter into any articles of engagement and regulation not inconsistent with this Act and previously approved by the commander-in-chief.

Articles of engagement of volunteer corps.

39. The men of the volunteer force shall serve for a period of five years, and no non-commissioned officer or man shall in any case, unless legally discharged, leave the same without giving at least six months

Length of service of volunteer force.

months notice in writing to the commanding officer of his desire to do so; nor shall he at any time, leave the same contrary to the engagement in any articles of engagement he may have signed.

40. The commanding officers of the volunteer field batteries, troops of cavalry and battalions (or portions of battalions) of volunteer garrison artillery, and of volunteer infantry, shall be responsible that their corps and battalions respectively are kept up to the full strength as required for each thereof by this Act; and in the event of failure of any corps or battalion as aforesaid, to maintain the complement of men has herein-before prescribed for each respectively, or of any corps or battalion becoming inefficient, the commander-in-chief may disband any such corps so incomplete or inefficient; and the commander-in-chief may disband any corps or battalions if in his opinion necessary to the public good.

41. To each military district, as mentioned in the thirty-second clause of this Act, a permanent staff shall be appointed, consisting of one town adjutant and one staff sergeant-major to each battalion.

42. The town adjutant shall be under the orders of the colonel of the district within which he shall reside; shall have general superintendence over the armories and stores, and have control over the staff sergeant-majors of battalions; shall make out all returns, certificates, rolls, and other documents, that may be required, shall undertake the official correspondence relating both to the sedentary and active militia of the district, and shall carry out the instructions of the colonel of the district with respect to the drill and instruction of the officers, non-commissioned officers, and men of the volunteer and regular force at all times of the year; shall act as pay master of all the corps and battalion in the district, and shall perform such other services as may be from time to time ordered by the commander-in-chief.

43. The staff sergeant-major, under the control of the adjutant, shall have the immediate charge of the arms, accoutrements, knapsacks, and other stores of his battalion and of the field batteries or troops attached to it, and shall be employed in drilling and instructing the officers, non-commissioned officers, and men of his corps, and shall act as clerk to the adjutant, and perform such other services as may be ordered by the colonel of the district.

44. The officers and non-commissioned officers of the permanent staff, mentioned in the two next preceding clauses, shall be appointed by the commander-in-chief for five years only, at the termination of which period they will be eligible for re-appointment to another military district, or to a battalion of regular militia in another district; and the commander-in-chief may remove at pleasure any officer or non-commissioned officer of such staff, and cancel the commission or appointment thereof respectively.

45. The several volunteer field batteries, companies of rifles and foot artillery, and troops of cavalry, duly organized and in existence at the time of the passing of this Act, may continue as such respectively, and similar corps may from time to time be authorized by the commander-in-chief; and all the provisions of this Act applicable to the volunteer force shall apply to them respectively, except in so far as that such only shall receive pay and allowance for clothing as may be appointed under the thirty-third section of this Act as the volunteer force of any of the military districts therein mentioned.

46. In each militia district there may be formed a volunteer company of engineers, to consist of a captain, a lieutenant, a second lieutenant, and such number of men, not exceeding seventy-five, as the governor may direct.

47. The corps composing the volunteer militia shall be liable to be called out in aid of the civil power in case of riot or other emergency requiring such services, and whether such riot or emergency shall occur within or without the municipality in which such corps may be raised or organized, and it shall be the duty of the officer commanding any such corps to call out the same or such portion thereof, as is necessary for the purpose of quelling any riot, when thereunto required in writing by the mayor, warden, or other head of the municipality in which such riot takes place, or by any two magistrates therein, and to obey such instructions as may be lawfully given him by any magistrate in regard to the mode of quelling such riot; and every officer, non-commissioned officer, and men of such corps or portion of a corps shall, on every such occasion, obey the orders of his commanding officer; and the officers and men, when so called out, shall, without any further or other appointment, and without taking any oath of office, be special constables, and shall act as such so long as they remain so called out.

NO. 2.—THE REGULAR FORCE.

48. Each field battery, troop of cavalry, and battalion of garrison artillery and infantry of the regular force, shall respectively be of such establishment and strength as is herein-before prescribed in reference to the volunteer militia.

49. The regular force shall be raised either by "voluntary enlistment," by "selection," by "ballot," or by a combination of voluntary enlistment and the ballot.

50. The following method shall be adopted in raising the regular force:—The captain of each sedentary company having assembled all the men between the ages of eighteen and forty-five, belonging to his company division, will call upon them to give the number required voluntarily; but if volunteers do not come forward in sufficient numbers, he will inform the men that it is his duty to fill up the number by ballot, unless a majority of two thirds prefers that he select men for the regular force from amongst them, in which case it will become his duty to make his selection in such a manner as to make the pressure bear upon the families who are best able to support it, and if there is not a majority of two thirds of the men in favour of the selection by the captain, he shall at once proceed with the ballot.

51. In the event of the ballot being adopted, the regular force shall be taken, in the first place, from amongst the unmarried men and widowers without children.

52. Every man, taken by ballot or selection for the regular force, may provide a substitute, subject to the approval of the commanding officer of the corps or battalion, or may pay the sum of thirty dollars for exemption from service for three years, which sum shall be paid to the town or staff adjutant, and

by

Officers responsible for strength of corps.

When commander-in-chief may disband them.

Permanent staff of military districts of cities.

Duties of town adjutant.

Duties of staff sergeant-major.

Length of period of appointment of permanent staff, and re-appointment.

Volunteer corps in existence now, may continue, and commander-in-chief may authorize similar corps on similar conditions.

Volunteer company of engineers.

Volunteer may be called out in aid of civil power, and their duty in such cases.

And when so called to act as special constables.

Establishment of field batteries, troops of cavalry, and battalions of garrison artillery and infantry of regular force.

How regular force is to be raised.

Method of raising regular force.

If ballot adopted, who to be first taken. Substitutes may be provided, or an exemption fine paid.

by him paid to the receiver general, and become portion of the consolidated revenue of the province, and in such case another man shall be drafted in his stead.

53. Men of the regular force shall serve for a period of three years.

54. To each battalion of the regular force a permanent staff shall be appointed, consisting of one adjutant and one staff sergeant-major.

55. The adjutant of a regular battalion shall be under the orders of the commanding officer of his battalion, shall have charge of all arms, clothing, ammunition, books, rolls, and other documents, belonging to the whole active militia within the regimental division to which his battalion belongs, and within which he shall reside; he shall be responsible that all vacancies in the active field batteries, troops, or companies, are filled up as they occur; he shall undertake the official correspondence relating both to the sedentary and active militia of his division; he shall be instructed to encourage the officers, non-commissioned officers and privates of his battalion, to drill and practise with the rifle, in their leisure hours throughout the year, and afford every assistance in his power to any men who may wish to qualify themselves as officers or to receive military instruction; he shall act as paymaster of his regimental division; and perform all such other services as may be, from time to time, ordered by the commander-in-chief.

56. The staff sergeant-major, under the control of the adjutant, shall have the immediate charge of the arms, accoutrements, knapsacks and other stores, of his battalion and of the field batteries or troops attached to it; and shall be employed in drilling and instructing the officers, non-commissioned officers and men of his battalion; shall act as clerk to the adjutant, and perform such other services as shall be ordered by the commanding officer of his battalion.

57. The officers and non-commissioned officers of the permanent staff, mentioned in the two next preceding clauses, shall be appointed by the commander-in-chief for five years only, at the termination of which period they will be eligible for re-appointment to a battalion in another district, and the commander-in-chief may remove, at pleasure, any officer or non-commissioned officer of such staff, and cancel the commission or appointment thereof respectively.

NO. 3.—THE RESERVE FORCE.

58. Men of the regular force shall, at the expiration of their term of service, pass into the reserve force, and continue to be enrolled in that force for a farther period of three years.

59. Officers shall be appointed to the reserve force in the same proportions, and in the same manner and under the same provisions, as herein-before contained in reference to the volunteer and regular militia.

PROVISIONS APPLICABLE TO THE VOLUNTEER AND REGULAR FORCE.

60. Every volunteer and regular militiaman shall sign a service roll in which the conditions of his service shall be stated.

61. A gratuity of forty dollars may be paid to any sergeant of the volunteer or regular force, who, at the expiration of his first term of service in the active militia, has re-engaged and served for a farther period of five years in the volunteer force, or seven years in the regular force.

62. Any sergeant who may retire at the expiration of his first term of service, may be replaced by any corporal who has completed his first period of service, such promoted corporal to receive the same grant at the expiration of his ten years service; provided always, that the above mentioned re-engagements, in both cases shall be subject to the approval of the commanding officer of the corps or battalion.

63. Any man desiring to change his residence to another regimental division, shall communicate his intention to the commanding officer of his corps or battalion, and shall obtain from him a certificate of service, a duplicate of which shall be sent to the commanding officer of the active battalion belonging to the regimental division to which the man is removed, and he will be called upon to complete his term of service in that division, and should he fail to present himself at the first muster in the corps or battalion to which he is removed, he shall (unless he can satisfactorily account for his absence) be liable to be drafted for a full period of service, without reference to his former service.

64. Any man who may require to leave the country, shall also obtain from his commanding officer a certificate of service, and should he return within a period of ten years, he may on production of such certificate be allowed to complete his period of service, otherwise he shall be liable to be drafted for full period.

65. All men who shall have completed their three years service in the regular force, and three years in the reserve force, shall be placed at the bottom of the list of men between eighteen and forty-five years of age, in the regimental division, and shall not be liable again to be drafted until every man above them on the list shall have served; and each man at the expiration of his service shall be furnished with a certificate of service.

66. All vacancies in the volunteer force and regular battalions of active militia shall be filled up as they occur, and in the case of regular battalions they shall be filled up according to the provisions of the fiftieth clause of this Act.

67. In time of war no man shall be required to serve in the field continuously for a longer period than one year, but any man who volunteers to serve for the war or for any longer period than one year shall be compelled to fulfil his engagement; provided that the commander-in-chief may, in cases of unavoidable necessity (of which necessity he shall be the sole judge), call upon any volunteer or regular militiaman to continue to serve beyond his period of general service, or voluntary engagement, or beyond his one year's service in the field, for any period not exceeding six months.

Length of service of men of regular force.

Permanent staff of battalions.

Duties of adjutant of a regular battalion.

Duties of staff sergeant-major.

Length of period of appointment of permanent staff, and re-appointment.

How reserve force constituted, and period of service. Officers of reserve force.

Service rolls to be signed.

Gratuity to sergeants re-engaged for a second period of service.

Promotion of corporals.

Volunteer or regular militiamen changing residence.

Volunteer or regular militiamen leaving the country.

Procedure at expiration of three years' service.

Vacancies to be filled up at once.

Period of active service in the field limited to one year.

Reliefs of men sent home from length of service in the field.

68. In time of war when men are sent home from length of service in the field, the relief shall be made by drafts or complete battalions from the reserve or service sedentary force, as may be found most expedient at the time.

Training and muster.

Number of days training, and season for same, of regular force.

69. Every battalion of the regular force or such portion thereof as the commander-in-chief may order shall be called out for training, at the most convenient time in each year, for a period of twenty-eight days; and the commander-in-chief may, in his discretion, reduce such period of training so that it be not less than fourteen, in which case such recruits as have not been present at any former training shall have fourteen days drill in addition.

Number of days training of volunteer force.

70. The volunteer force shall drill for not more than twenty-eight nor less than fourteen days in each year; but such period of drill may be divided at the discretion of the commander-in-chief.

Inspection of active militia.

71. Every corps and battalion of the active militia shall, during its period of training, be subject to inspection from time to time by such person or persons as shall be temporarily appointed by the commander-in-chief for such inspection, who shall report fully to the commander-in-chief on the state of such corps and their arms and accoutrements and the general efficiency of such force, and shall be reimbursed his or their actual travelling expenses by the province, and paid therefor at a rate not exceeding four dollars per diem whilst so engaged; provided that such person or persons, to be appointed from time to time for such inspection, shall be an officer or officers (not being under the rank of field officer) of Her Majesty's service, and actually serving in this province, or in case the services of an officer or officers as aforesaid cannot be obtained, then such other person, not being under the rank of field officer of militia of this province, who shall in like manner be reimbursed his actual travelling expenses and paid such remuneration; provided that nothing in this clause contained shall be held to prevent the commander-in-chief from continuing the services of the present inspecting field officers of Militia at their present salaries.

Present inspecting field officer of militia.

Encampment of militia when training. Training of reserve force.

72. The militia shall be encamped, when practicable, during their period of training, and in such case the camp limits shall be marked out, and the space within those limits held to be a building or barrack.

73. The commander-in-chief may call out the reserve force for six days training in each year, and the several provisions of this Act, relative to the regular force, shall, during such period, apply to the reserve force.

Volunteer may be drilled at other times, according to their articles of engagement.

74. Nothing herein contained shall be construed to prevent any volunteer corps from assembling or being ordered out by the officer commanding it for drill or exercise according to any articles of engagement or regulations of such corps previously approved by the commander-in-chief, or to prevent any regular corps or portion of a corps from assembling for drill or exercise, without receiving any pay therefor from the province.

Commander-in-chief may dispense with muster or training of volunteer or regular force.

75. The commander-in-chief may, by any militia general order, dispense with the muster or training of any corps or battalion or part of a corps or battalion of the volunteer or regular force, either in any particular year or until further order, and may, in like manner, again direct such muster and training, or either of them, to be resumed if he sees fit, and any such order shall have the force of law according to the terms thereof.

Codes of instruction for volunteer and regular militia.

76. The adjutant general shall draw up, and from time to time alter, under the direction of the commander-in-chief, codes of instruction in drill and exercise for the volunteer and regular militia, based on that in use in Her Majesty's army, and each commissioned officer of a corps or battalion shall be furnished with a copy, and shall be governed by the same in drilling and exercising the corps to which he belongs.

Ammunition for practice.

Practice Ammunition.

77. The active militia shall, for purposes of drill, be furnished with a sufficient quantity of blank and ball practice ammunition in such manner as the commander-in-chief may direct.

Privileges of the Volunteer and Regular Force.

Exemption of arms, horses, &c. from seizure and assessment.

78. The arms and accoutrements of the officers and men of the volunteer and regular force, and the horses used by them as such, shall be exempt from seizure in execution and from distress and assessment; nor shall any such horse be disposed of by any officer or man, without leave of the officer commanding the corps or battalion.

Active militia, while on drill or on service, exempt from serving as jurors or constables, evidence of service.

79. The officers, non-commissioned officers, and men of the active militia, while at drill or on service, shall be exempt from serving as jurors or constables; and a certificate, under the hand of the commanding officer of any such corps or battalion, shall be sufficient evidence of the service in his corps or battalion of any officer, non-commissioned officer or man, during such period aforesaid.

Drill grounds, armoury, and stores, &c. for volunteers.

Drill Grounds.—Arms, Armouries, Clothing and Stores.

80. A drill ground shall be provided within, or in the vicinity of, each military district formed under the thirty-second clause of this Act, and a suitable building shall be provided containing an armory, magazine, store-rooms, orderly room, and gun sheds, and the arms and stores of each battalion shall be kept separately in charge of the staff serjeant-major; and such building shall be enclosed within a wall or fence capable of defence against sudden attack.

Drill ground, armoury, and stores for militia.

81. A suitable drill ground shall be provided in some advantageous central position in each regimental division, and a stone or brick building shall be erected or provided on the drill ground, containing a store, armory, magazine, orderly rooms, shifting room and quarters for the serjeant-major, and such building shall be enclosed within a wall or fence capable of defence against sudden attack, and gun sheds and stores for saddlery shall be added where required.

Sites to be approved by commander-in-chief.

82. The selection of the site for these drill grounds and buildings shall be subject to the approval of the commander-in-chief.

83. Each

83. Each volunteer militiaman shall receive an allowance of three dollars a year in lieu of clothing.
84. The regular militiamen shall be supplied with clothing while on drill or service.
85. The arms, accoutrements, knapsacks, and great coats of all corps and battalions shall be kept in store, and the clothing of the regular militia shall be also kept in store; and these articles shall be served out to the men, when it is deemed expedient, by order of the commanding officer.
86. A complete set of pioneers' tools and implements shall be kept in each store of the regimental division, and when necessary, complete camp equipments, which shall also be kept in store.
87. Drums and bugles shall be supplied to the militia.
88. Commissioned officers shall furnish their own arms and accoutrements.
89. The commander-in-chief may, from time to time, prescribe the uniform of the several corps or battalions continued under this Act, or organized after the passing of this Act, or of any of them.
- (2.) Provided that the several corps in existence, at the passing of this Act, may continue to wear their then clothing until the same requires to be replaced, and it shall be the duty of the commanding officer of the said corps or battalions respectively, to see that the same are, upon any such replacing of clothing, uniformed according to the order of the commander-in-chief in such respect.
90. The arms and accoutrements of the officers and men of the active militia shall be such as the commander-in-chief, from time to time, directs, but of the best and most serviceable kind, without unnecessary ornament. Such arms and accoutrements shall be furnished to the non-commissioned officers and privates at the expense of the province, but shall always remain provincial property, and the parties receiving them shall, whilst in their possession, be accountable for them. And where there are no public armories the commander-in-chief may direct such security, as he thinks proper, to be taken for the safe keeping in good order of such arms and accoutrements, and the re-delivery thereof to such officer as may be appointed to receive them, whenever the commander-in-chief for any purpose directs such re-delivery.
91. The said arms and accoutrements shall be renewed and kept in repair at the cost of the province whenever such renewal or repair becomes necessary from wear in service or other cause than the fault or neglect of the person having charge thereof, in which last named case they shall be renewed or repaired by such person, or, if renewed or repaired at the cost of the province, the cost may be recovered from such person as a debt due by him to the crown.
92. The arms and accoutrements of non-commissioned officers and men of the active militia shall be kept in public armories wherever there are such; and where there are no such public armories then the commanding officer of each corps or battalion shall be personally responsible for the arms and accoutrements of the non-commissioned officers and men under his command, and shall himself actually keep the same, and may be allowed annually a sum not exceeding twenty dollars for so doing and for taking care of the arms and accoutrements:
- (2.) Nothing herein shall be construed to relieve the officers or men of the active militia of any liability in respect to the arms and accoutrements thereof delivered to the custody, care, or possession of any of them, or in any other respect, under any Act heretofore passed, but any proceedings thereto relating shall be brought within twelve months after the discovery of any breach of the provisions thereof.
93. No non-commissioned officer or private shall at any time appear armed or accoutred, except when *bona fide* at drill whether paid or unpaid, or at target practice, or at reviews or on field days or inspections, or for receiving distinguished persons, or rendering funeral honours to deceased comrades, or when required to act in aid of the civil power under due authority; nor shall the arms and accoutrements be taken out of this province without the order of the commander-in-chief.

PAY.

94. The active militia shall be paid by the province during the period of training in each year, as follows, that is to say:—Officers an uniform rate of pay of one dollar per day, and the non-commissioned officers and privates an uniform rate of pay of fifty cents per day, for each day's actual and *bona fide* drill or attendance; and officers, non-commissioned officers and men of the field batteries and troops of cavalry of the active militia shall receive, in addition to their pay aforesaid, an uniform allowance of one dollar per day for each horse, to the extent in number herein-before mentioned, during the period of the training aforesaid.
95. When called out in aid of the civil power, the officers of the active militia shall, for and during such period, be paid by the municipality by whom their services are required, the same scale of pay respectively as the daily pay of officers of corresponding and relative rank in Her Majesty's service, and the non-commissioned officers and men so called out shall be paid by the municipality aforesaid, the sum of one dollar per day, and shall also be provided with proper lodging by such municipality; and the said sums and the value of such lodging, if not furnished by such municipality, may be recovered from it by the commanding officer of the corps or battalion in his name, and when received or recovered shall be paid over to the officers, non-commissioned officers, and men entitled thereto.
96. In time of active service in the field, the officers, non-commissioned officers and men of the active militia shall be paid by the province such rates of daily pay, and shall receive such allowances in every respect as are paid and allowed to the relative or corresponding rank or grade in Her Majesty's service.
97. The town adjutants and adjutants of battalions of regular militia shall be paid by the province at the rate of two dollars per day per annum, and an allowance of fifty cents per day per annum for travelling expenses and forage for a horse, and shall also be paid the annual sum of per annum, as a contingent allowance to cover the expenses of postage and stationery; and one adjutant in each military district, who shall be chosen by the Commander-in-chief, shall be paid an additional allowance per annum, to cover expenses incurred in postage and stationery by the colonel

colonel commanding the district; and each of the staff sergeants of districts and battalions of regular militia shall be paid by the province the sum of three hundred dollars.

Commander-in-chief may order times and manner of payment.

98. The active militia shall be paid at such times and in such manner as the commander-in-chief, by any militia general order, may from time to time direct.

SEDENTARY MILITIA.

No. 1.—THE SERVICE SEDENTARY FORCE.

Of whom service sedentary force composed.

In time of peace, sedentary militia to be enrolled, and to be mustered annually, and where.

Annual muster day in U. C. may be 29th June.

Commander-in-chief may dispense with annual muster and again require it.

Order in which service sedentary shall be taken for actual service.

Officers of companies of sedentary force.

Enrolment, how to be made by officers.

Militiamen bound to give in their names.

Rolls of companies to be made annually, also returns of battalions.

Company rolls to be corrected from time to time.

Duty of householders, &c., to give all information requisite.

And of militiamen.

Duties of municipal assessors.

To leave a column in assessment roll, for militia roll.

Certificate of assessors thereto.

Clerk of municipality to make copy of militia roll.

99. The service sedentary force shall be those of eighteen years of age and upwards, but under forty-five years, not being in the volunteer, or regular, or reserve force.

100. In time of peace no actual service or drill shall be required of the service sedentary force, but they shall be carefully enrolled from time to time, and shall also assemble for muster annually, at such place and hour, in such manner and for such purposes, as the commanding officer of each battalion may direct with respect to each company therein; the muster day being in Lower Canada the twenty-ninth of June, or if that day fall on a Sunday, then the next day thereafter, and in Upper Canada the Queen's birth day, or if that day fall on a Sunday, then the day next thereafter.

(2.) Except that the commander-in-chief may, in his discretion, but on the application of the colonel commanding any military district in Upper Canada, direct that the annual muster day in such district be the twenty-ninth day of June.

101. The commander-in-chief may, by any militia general order, dispense with the annual general muster of the service sedentary force in either section of the province, either in any particular year or until further order, and may, in like manner, again direct such muster to be held, if he sees fit; and any such order shall have the force of law according to the terms thereof.

102. When the service sedentary force are called out in case of war, invasion, or insurrection, those first taken for actual service shall be from amongst the unmarried men and the widowers without children.

103. To each company of the service sedentary force there shall be appointed of commissioned officers, a captain, a lieutenant, and an ensign, and of non-commissioned officers, four sergeants and four corporals; and the commander-in-chief may appoint to all militia battalions, companies or corps, the proper number of surgeons, assistant surgeons, and veterinary surgeons.

104. The enrolment of the service sedentary militiamen shall be made in each company division by the captain thereof, with the assistance of the officers and non-commissioned officers of the company; and it shall be the duty of the captain, and, under his orders, of the other officers and non-commissioned officers of the company, by actual enquiry at each house in the company division, and by every other means in their power, to make and keep at all times a correct roll of the company in such form as may be directed by the adjutant general.

105. Each man liable under this Act to be enrolled in any company, and not so enrolled, shall give in his name, age, and place of residence in writing to the captain or officer commanding such company, within twenty days after he becomes so liable, whether by the alteration of any militia division, change of residence, or otherwise howsoever.

106. The officer commanding a service sedentary company of the militia shall, within twenty days after the annual muster day for such company, make out a corrected roll thereof, and transmit a certified copy thereof to the officer commanding the battalion, who, within forty days after such muster, shall forward a correct return of the battalion under his command to the colonel of the district; and the said return shall then be transmitted by the colonel to the adjutant general at head quarters.

107. Each company roll shall be corrected from time to time as changes occur which affect it; and every householder and resident in the company division, and every assessor, town clerk, or other municipal officer shall be at all times bound to give to the commanding officer, or any officer or non-commissioned officer of the company, such information as may be required to make such corrections, and to answer all such questions as any of them may pertinently put to him for the purpose of obtaining such information; and every militiaman shall be bound to inform the officer commanding the company, in writing, of any change of residence or other circumstances affecting such militiaman, by which the roll of any company is affected, whether such militiaman comes into or leaves the company division for which the roll is made.

Commutation Assessment.

108. The assessor or assessors for each municipality shall, annually, commencing with the year one thousand eight hundred and sixty-three, and at the same time when they are engaged in taking the assessment or valuation of real and personal property in their respective municipalities, include in their assessment roll the names of all male persons in their respective municipalities, between the ages of eighteen and forty-five years; and they shall prepare an additional column in the said assessment roll, which shall be headed "Militia Roll," and in such column, opposite the name of each male person between the ages aforesaid, shall insert "fifty cents" as commutation assessment for militia service; and every copy required by law to be made of the said assessment roll shall contain the additions herein specified; and in addition to the oath required under the present or any future laws of this province, to be taken by such assessor or assessors in respect to the assessment roll, there shall also be made and attached to the said roll the following certificate signed by such assessor or assessors:

"I do certify that I have truly and faithfully, and to the best of my knowledge, set down in the above militia roll, the names of all male persons within the municipality of (as the case may be) between the ages of eighteen and forty-five years, liable to be enrolled by the militia laws of this province; and such affidavit shall be verified by him or them, upon oath before a justice of the peace.

109. Upon receipt of the assessment roll by the clerk of the municipality, he shall make a copy of such militia roll as a document separate from the assessment roll, and shall cause such copy to be put

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up in some convenient and public place within the municipality, and to be maintained until after the meeting of the Court of Revision, as provided in and by the laws of this province.

110. Every officer, non-commissioned officer, and private of any corps or battalion of the active militia shall be exempt from payment of commutation assessment, and it shall be the duty of every officer commanding a corps or battalion of the active militia, by the day of in the year 1862, and by the tenth day of May in each succeeding year, to make out and transmit to the clerk of every municipality in which any men of his corps may then reside, a correct list of all such men within the said municipality as were actually and *bona fide* serving in such corps on the first day of May in that year, and shall attach thereto his certificate to the following effect:

"I, A. B., (captain or other officer) commanding (designation of corps) do certify that the persons whose names are hereafter set down were actually and *bona fide* enrolled and serving in such (corps or battalion) on the first day May, 18 ."

And shall make a solemn declaration before a justice of the peace of the truth and correctness of such list.

111. All persons wholly exempt from enrollment and from actual service in any case, as provided by the seventh section of this Act, shall be exempt from payment of commutation assessment; but no person shall have the benefit of such exemption, unless he has at least fourteen days before he claims such benefit before the Court of Revision, as herein-after mentioned, filed his claim thereto with his affidavit, made before some justice of the peace, of the facts on which he rests his claim, and in verification thereof with the clerk of the municipality within which he resides; and whenever exemption is claimed, whether on the ground of age or otherwise, the burden of proof shall always be upon the claimant; and every Justice of the Peace is hereby required to administer the oath required under this section, free of charge.

112. At the sitting of the Court of Revision, as constituted by the assessment laws of this province, the said court shall then determine who are exempt under the seventh section of this Act, and in the said roll, opposite the name of each person so exempt, shall insert the word "exempt," and every person on the said militia roll not marked by such court as exempt, shall be liable to pay the sum of fifty cents set opposite to his name as aforesaid.

113. The clerk of every municipality shall, in the collector's roll, set down the name of every person so liable to pay the said sum of fifty cents under the head of "Militia Roll," and the said sum of fifty cents against every person who shall appear by the said "militia roll," liable to pay the same, shall be collected at the same time and in the same manner as taxes are collected in each municipality; and every collector shall have and pursue all and every the rights, powers, and remedies for the collection or recovery of the same, as are now and may at any time hereafter be prescribed by the assessment laws of this province in respect to the collection of taxes; and it shall be the duty of the clerk of the said municipality to forward a true copy of the "militia roll," within fourteen days after the completion of the collector's roll to the Adjutant General of Militia.

114. All moneys so collected shall, by the collector, be paid over to the treasurer of the said municipality, and shall be by the said treasurer forthwith paid to the receiver general of this province, first deducting for the benefit of the municipality per centum for the expenses of assessing and collecting the same and of making the returns and performing the other duties required of the municipality and its officers, under the provisions of this Act, and such moneys shall form part of the consolidated revenue of this province for militia purposes only.

115. The said collector shall make such payment and return under oath, stating explicitly that such return is true and correct, and that he has truly and faithfully made active and diligent efforts to collect the commutation assessment of each person on his roll, of whom he has not collected the same, and that he has been unable to collect such assessment.

116. If any person shall neglect or refuse to pay the commutation assessment, as herein prescribed, and the collector of the municipality to whom the militia roll for collection thereof shall be given, shall be unable to collect the same, it shall be the duty of such collector to return the names of all such persons to the clerk of such municipality, who shall make a list of such delinquents; or (in Lower Canada) if he be himself the secretary treasurer, he shall himself make such list and deliver it to the local council, and deliver the same to the Court of Revision at their annual meeting next thereafter.

117. Whenever it shall appear from the return of any collector or treasurer that any person has neglected or refused to pay such commutation assessment, and that the collector has been unable to collect the same, such sum shall be added to his annual commutation assessment of the next year by the Court of Revision, and collected in the same manner as herein-before provided by the hundred and thirteenth section of this Act.

118. The bond or security to be executed by the collector and by the treasurer of the municipality, shall apply to all moneys required to be collected for militia purposes under this Act.

119. Every officer commanding a company of the sedentary militia, or in his absence the officer next in command and personally present at the annual muster, shall, within one month after the annual muster day for such company, make out a true and correct list of all such persons as attended the said muster, and shall attach thereto his certificate to the following effect:

"I, A. B., Captain (or other officer) commanding do certify that I personally attended the muster of the company of sedentary militia under my command in the (town, township, &c. as the case may be,) of in the county of and that the above is a true and correct list of the names of those who actually attended the annual muster on the day of 18 ."

And shall make a solemn declaration before a justice of the peace of the truth and correctness of such list, and shall also forward the same to the clerk of the municipality within which the limits of his company's district or division are fixed, or if such limits be within two or more municipalities, a similar

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Exemption of active militia from payment of commutation assessment.

Certificate by officer commanding corps.

How benefit of exemption to be claimed and proved.

Court of revision under assessment laws to determine exemptions.

Collection of commutation assessment.

Copy of roll to be forwarded to adjutant general.

Payment over to receiver general for consolidated revenue.

Return on oath of collector.

Duty of collector in case of neglect or refusal of persons to pay commutation assessment.

Sums in arrear and uncollected, to be added to commutation assessment of the next year.

Security of officers of municipality to extend to sums to be so collected.

List by officer commanding company of sedentary militia of those present at muster and certificate.

similar list and certificate, verified by declaration as aforesaid, to the clerk of each such additional municipality, and shall also forward a copy thereof to the lieutenant colonel commanding his battalion, who shall forward the said copy so received by him to the adjutant general of militia.

Duties of clerk of municipality on receipt of list of active militia and certificate.

120. The clerk of each municipality shall, upon the receipt of the list and certificate mentioned in the one hundred and tenth section of this Act, and prior to the delivery of the collector's roll to the Collector of such municipality, (or before using such list if, being a secretary-treasurer in Lower Canada, he be himself the collector), mark on the said roll after the name of each person so appearing by such list and certificate to have attended muster for the then current year, the words "at muster," and every person shall thereby be discharged from payment of the commutation assessment for that year.

Provisions of assessment laws applicable.

121. The several sections from to inclusive, of the fifty-fifth chapter of the consolidated statutes for Upper Canada, intitled: *An Act respecting the assessment of property in Upper Canada*, and their several provisions, and the several provisions of the *Lower Canada Municipal and Road Act of 1855*, and the Acts amending it, and the provisions of every special Acts incorporating or governing any town or city in Lower Canada, relative to assessments and their collection, shall be applicable to the tax hereby imposed and to the persons employed in collecting, and their duties under this Act, and shall be read and deemed as part thereof.

Persons bound to give information of those liable to be enrolled.

122. All tavern-keepers, keepers of boarding houses, persons having boarders in their families, and every master and mistress of any dwelling house, shall, upon the application of any assessor or collector, give information of the names of all persons residing or lodging in such house, liable to be enrolled, and all other proper information concerning such persons as such assessor or collector may demand.

Penalty on persons refusing to give information or giving false information.

123. If any person of whom information is required by any assessor or collector in order to enable him to comply with the provisions of this Act shall refuse to give such information, or shall give false information, he shall forfeit and pay \$ for each item of information demanded of him and falsely stated, and the like sum for each individual name that may be refused, concealed, or falsely stated, and every person who shall refuse to give his own name and proper information, when applied to as aforesaid, or shall give a false name or information, shall forfeit and pay a like sum, such penalties to be recovered summarily before a justice of the peace.

Interpretation clause.

124. In this Act, as far as regards Lower Canada, the words "assessor or assessors" shall include valuers, the word "municipality" shall mean a local municipality, and shall include every city, town and village incorporated, whether the corporation thereof be governed by the General Municipal Acts respecting municipalities or any special Act, or partly by both, the word "clerk" shall include the secretary-treasurer of any such municipality, or other person making out the collection rolls, or other documents showing the sums to be collected as taxes, the word "treasurer" shall include the secretary-treasurer or other person receiving or having the custody of the funds of the municipality, the expression "court of revision" shall include the local council, board of revisors, or other authority having the revision of assessment or valuation rolls, the expression "collector's roll" shall include every collection roll or other document showing the taxes payable by each person, and authorizing their collection, the word "collector" shall include the secretary-treasurer or other person employed to collect the taxes imposed in any municipality, and the expression "assessment laws" shall include the Lower Canada Municipal Act of 1855, the Acts amending it, and all special Acts incorporating or relating to the incorporation of any city or town or village in Lower Canada; the assessment or valuation roll, which is to serve for any year, shall be held to be that in which it is intended that the names of the persons between the ages of eighteen and forty-five shall be inserted as liable to the tax hereby imposed, although such rolls be made in the previous year, so that (for example) if in any city or town the roll for one thousand eight hundred and sixty-three is made in one thousand eight hundred and sixty-two, the said names shall be inserted in it; and in municipalities where the valuation rolls are made only once in three years the captain commanding any company of sedentary militia shall, in the month of in each year in which such roll is not made, furnish the secretary-treasurer with an amended list of the names of the persons in the local limits of such company, between the ages aforesaid, and liable to serve in the militia as service men, and such amended list shall be kept by the said secretary-treasurer at his office open to the inspection of the public during weeks, and shall be taken in consideration and revised by the local council at its first meeting after the expiration of that period; and all persons may then be heard by such council in respect to an error in the said list, and the council shall confirm it after making such amendments as they think proper, either by adding or striking out any name or names, and it shall then be held to be the revised list for the year, and shall not afterwards be called in question.

NO. 2.—THE RETIRED SEDENTARY FORCE.

Of whom retired sedentary force composed.

125. The retired sedentary force shall be composed of those men between the ages of forty-five and sixty years, not being in the volunteer or regular or reserve force, who shall claim exemption on account of being above that age; and non-commissioned officers shall retain their rank.

Retired sedentary force may, in emergency, be required to serve in militia.

126. The commander-in-chief may require the officers, non-commissioned officers and men of the retired sedentary force to serve in the militia in cases of great emergency, of which cases he shall be the sole judge, and he may, by any militia general order for that purpose, either form such retired sedentary militiamen into separate corps, under their own officers, or cause them to be drafted as if they belonged to the service sedentary force, as he may see fit.

LEVÉE EN MASSE.

Who may be required to serve on levée en masse.

127. The commander-in-chief may require all male inhabitants of the province, above the age of sixty years, to serve in case of a *levée en masse*.

CORPS

CORPS FOR GENERAL SERVICE.

128. The commander-in-chief may, in the event of war, raise, in addition to the volunteer and regular militia of the province, such regiments of militia by voluntary enlistment for general service during such war, and for a reasonable time after its termination.*

Commander-in-chief may raise regiments of militia, during war.

DRILL ASSOCIATIONS.

129. The commander-in-chief may sanction the organization of associations for purposes of drill and of independent companies of infantry composed of professors, masters, or pupils of universities, schools, or other public institutions, or of persons engaged in or about the same, who shall provide their own arms, accoutrements, and clothing; but such associations or companies shall not be provided with any clothing or allowance therefor, nor shall they receive pay.

Commander-in-chief may authorize drill associations, &c. not to be armed, clothed or paid.

MARINE MILITIA.

130. It shall be the duty of each seaman, or other person engaged ordinarily in the calling of a seaman or sailor, or otherwise occupied or engaged in or upon any of the steamers, schooners, or other vessels upon the lakes or waters in this province, or belonging to any of the ports thereof, during the month of December in each year, to attend personally at the office of the collector of customs, at the port at or nearest to which such person may have his ordinary place of residence, and there to register his name, age, and place of residence; and the collector of customs shall give a certificate of such registration to the persons so becoming registered, and such person shall thereupon be exempt from service in the active militia and from muster of the sedentary militia, as herein-before mentioned, for the period of one year from the date of such registration; and the collector of customs respectively, at the several ports throughout the province, shall keep a book wherein such particulars shall be registered, and shall, when so required by the commander-in-chief, supply copies of the same to the adjutant general of militia.

Seamen to register their names, &c. with collectors of customs of ports.

Collectors to keep book of registration.

131. Each captain, master, or other person in command of any such steamer, schooner, or other vessel as aforesaid, shall upon engaging any seaman, sailor, or person engaged ordinarily in the calling of a seaman or sailor or otherwise occupied or engaged, as in the preceding clause mentioned, make diligent inquiry and satisfy himself that such person has been duly registered as herein-before required.

Captains or persons in command of vessels to be satisfied that their seamen are registered. Volunteer marine companies may be formed at certain places.

132. Volunteer marine corps or companies may be formed at each or any of the ports in this province of such establishment and strength and with such officers as the commander-in-chief may from time to time order.

Relative rank of the officers. How such corps to be armed and drilled.

133. Captains in the provincial marine shall rank as majors in the militia, and lieutenants as captains in the same.

134. The said marine corps shall be armed and uniformed in such manner as the commander-in-chief may direct, and may be trained and drilled as well to the use of small arms as in the management of gun-boats and the working of guns of heavy calibre.

Duties of minister of militia affairs.

DEPARTMENT OF MILITIA AFFAIRS.

135. There shall be a minister of militia affairs, who shall be appointed from among the heads of the public departments, and who shall be charged with the administration of militia affairs, and of the ordnance, ammunition, arms, armories and other stores and provisions and habiliments of war belonging to the province.

A paymaster of militia to be appointed.

136. There shall be a paymaster of militia attached to the said department of militia affairs, who shall hold office during pleasure, and shall be paid at the rate of *dollars per annum*.

DEPARTMENT OF ADJUTANT GENERAL.

137. There shall be an adjutant general of militia for the province, who shall hold office during pleasure, and shall have the rank of colonel in the militia, and who shall be a person educated to the military profession, and who has attained the rank of field officer in Her Majesty's service, and who shall be paid by the province at the rate of *dollars per annum*; he shall be charged under the orders of the commander-in-chief with the military command and discipline of the militia.

Adjutant general of militia, his rank, pay, and duties.

138. There shall be two deputies adjutant general of militia, one for Upper Canada and one for Lower Canada; and each of them shall hold office during pleasure, shall have the rank of lieutenant-colonel in the militia, and shall be paid by the province at the rate of *dollars per annum*.

Deputies adjutant general, their rank, pay, and duties.

CALLING OUT THE MILITIA.

139. The commander-in-chief may call out the militia or any part thereof for service, either within or without the province, whenever it is in his opinion advisable so to do by reason of war, invasion, disturbance, or insurrection, or imminent danger of any of them; and in any such case the volunteer and regular force shall first take the field, then the reserve force, then additional active battalions from the service sedentary force, and lastly the retired sedentary force.

Commander-in-chief may call out militia in certain cases. Order in which force shall take the field.

140. The colonel commanding any military district, or the officer commanding any volunteer or regular battalion, may, upon any sudden emergency of invasion or insurrection, or imminent danger of either, call out the whole or any part of the militia within his command, until the pleasure of the commander-in-chief is known.

Colonels or commanding officers may call out militia within their command until pleasure of commander-in-chief is known.

141. The militia so called out by their commanding officer shall immediately obey all such orders as he may give and march to such place within or without the division as he may direct.

Militiamen bound to obey. Volunteer corps to be included.

142. When the militia of any district or division are called out, in case of war, insurrection, or invasion, or imminent danger thereof, all corps of volunteers in such district or division shall be included in the order, and shall obey the officer issuing it.

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And so when the whole militia is called out.

Militiamen to attend with arms and provisions.

Persons unfit for duty to be rejected and another drafted.

Militia, when called out, &c. to be subject to articles of war.

Rank and command of officers as regards militia.

For what offences only militiamen may be sentenced to death.

Officer of regular army on full pay not to sit, &c.

What shall be furnished by those on whom they are billeted.

Impressing carriages, &c. on emergency.

Justice of the peace to billet on requisition of commanding officer.

Lodging of officers not to be paid for; allowance for men billeted; proper officers to settle accounts of officers and soldiers out of their pay, &c.

Quartering and billeting troops, &c. in cantonments.

Complaint of persons aggrieved, and how redressed.

No justice, being an officer, to billet or quarter troops.

143. When the whole militia of the province are called out all the volunteer corps shall be included and shall immediately obey the orders they receive.

144. Each active or sedentary militiaman called out for actual service shall attend at such time and place as may be directed by the officer commanding him, with any arms and accoutrements he has received from the province, and with such provisions as such officer may direct.

145. No man drafted and unfit from bodily infirmity to perform his duty shall be taken for service, but another man fit for service shall be drafted in his stead.

146. The militia so called out, for training, or in aid of the civil power, or for actual service, and every officer or man belonging to it shall from the time he has been ordered, taken, or drafted for any of such services, in addition to the penalties imposed by this Act, be subject to the articles of war and to the Act for punishing mutiny and desertion, and all other laws then applicable to Her Majesty's troops in this province, and not inconsistent with this Act; except that no militiaman shall be subject to any corporal punishment except death or imprisonment for any contravention of such laws; and except also that the commander-in-chief may direct that any provisions of the said laws shall not apply to the militia.

147. Any body of militia so called out shall be commanded by the officer highest in rank then present, or the senior of two or more officers of equal rank; officers of Her Majesty's regular army shall always be reckoned senior to all militia officers of the same rank, whatever be the dates of the respective commissions; and colonels appointed by commission signed by the commander of Her Majesty's regular forces in Canada shall command colonels of militia, whatever be the date of their respective commissions.

148. No militia officer or militiaman shall be sentenced to death by any court martial, except for mutiny, desertion to the enemy, or traitorously delivering up to the enemy any garrison, fortress, post, or guard, or traitorous correspondence with the enemy; and no sentence of any general court martial shall be carried into effect until approved by the commander-in-chief.

149. No officer of Her Majesty's regular army on full pay shall sit on any militia court martial.

BILLETING AND CANTONING TROOPS AND MILITIA WHEN ON ACTUAL SERVICE, AND FURNISHING CARRIAGES, HORSES, &c., FOR THEIR TRANSPORT AND USE.

150. When Her Majesty's regular forces or the militia are on a march within this province, and billeted as herein-after mentioned, every householder therein shall, when required, furnish them with house-room, fire and utensils for cooking, and candles; and in cases of emergency, by actual invasion or otherwise, the officer commanding the regiment, battalion, or detachment of troops or militia, may direct and empower any officer or non-commissioned officer of the same, or other person, after having first obtained a warrant for such purpose from a justice of the peace, to impress and take such horses, carriages or oxen as the service may require, the use of which shall be thereafter paid for at the usual rate of hire for such horses, carriages, or oxen.

151. When the said troops of Her Majesty, or the militia, or any regiment, battalion, or detachment of the same, are on a march as aforesaid, the officer or non-commissioned officer commanding them shall require a justice of the peace to billet, and such justice shall immediately thereupon so billet the said troops or militia as to facilitate their march, and in such manner as may be most commodious to the inhabitants. And every inhabitant householder shall receive the troops or militia so billeted upon him, and furnish them with the lodging and articles mentioned in the next preceding section.

152. No officer shall be obliged to pay for his lodging where he is regularly billeted; but each householder upon whom such soldiers are billeted shall receive from Government, for each non-commissioned officer, drummer, and private of infantry, a daily rate of ten cents, and for each cavalry soldier, whose horse shall be also provided with stabling and forage, a daily rate of twenty-five cents. And every officer or non-commissioned officer to whom it belongs to receive, or who does actually receive the pay for any officers or soldiers, shall, every four days, or before they quit their quarters if they do not remain so long as four days, settle the just demands of all householders, victualers, or other persons upon whom such officers and soldiers are billeted, out of their pay and subsistence money, before any part of the said pay or subsistence money shall be distributed to them respectively, provided such demands do not exceed in amount their pay and subsistence money for the time beyond which credit is not to be granted.

153. When the safety of this province requires that the said troops of Her Majesty, or militia, or any regiment, battalion, or detachment of the same, should be cantoned in any part of this province, any justice of the peace in the places where such troops or militia are cantoned, shall, upon receiving an order from the officer commanding them, or on a requisition from the officer commanding any such cantonment, quarter and billet the officers, non-commissioned officers, drummers, and privates of the said troops or militia, upon the several inhabitant householders, as near as may be to the place of cantonment, avoiding as much as possible to incommode the said inhabitants, and taking due care to accommodate the said troops or militia.

154. If any inhabitant considers himself aggrieved by having a greater number of the said troops or militia billeted upon him than he ought to bear in proportion to his neighbours, then on complaint being made to two or more justices of the locality where such troops or militia are cantoned, they may relieve such inhabitant, by ordering such and so many of the said troops or militia to be removed and quartered upon such other person or persons as they see cause, and such other person or persons shall receive such troops or militia accordingly.

155. No justice of the peace having any military office or commission in the said troops or militia, shall directly or indirectly be concerned in the quartering or billeting of any officer, non-commissioned officer, or soldier of the regiment, corps, or detachment under the immediate command of such justice or justices.

156. Nothing

156. Not troops or militia of females, with lodging.

157. Who peace where mandating the ment, for shall issue his jurisdiction after receiving service. By sections of the carriages, he oxen shall be

158. In conveyance ammunition such troops from the off-craft as are provisions a railway cars the same for exceeding t such person or boats or impressed a any railway on any term or penalty t

159. All the militia, shall be pur

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156. Nothing in this Act contained shall be construed to authorize the quartering or billeting of any troops or militia either on a march or in cantonment, in any convent or nunnery of any religious order of females, or to oblige any such religious order to receive such troops or militia, or to furnish them with lodging or house room.

Troops not to be billeted upon nuns, &c.

157. When any troops of Her Majesty or any militia are so cantoned as aforesaid, any justice of the peace where such cantonment is made, upon receiving an order to that effect from the officer commanding the said troops or militia, or a requisition in writing from the officer commanding that cantonment, for such and so many carriages as may be requisite and necessary for the said troops or militia, shall issue his warrant to such person or persons as are possessed of carriages, horses, or oxen, within his jurisdiction, requiring him or them to furnish the same for the service aforesaid, and if any person after receiving such warrant, refuses to furnish the same, they may be impressed and taken for such service. But no such carriage, horse, or ox, or any carriage, horse, or ox mentioned in the previous sections of this Act, shall be compelled to proceed more than thirty miles, unless in cases where other carriages, horses, or oxen cannot immediately be had to replace them; and such carriages, horses, or oxen shall be paid for at the usual rate of hire.

Justice may require persons to furnish carriages, &c. for troops.

May be impressed on refusal to furnish location of travel.

How paid.

158. In cases of emergency, when it is necessary to provide proper and speedy means for the conveyance by railway or by water of the troops of Her Majesty or of the militia, and also of their ammunition, stores, provisions, and baggage, any justice of the peace of and in the locality where such troops or militia are, either on a march or in cantonment, upon receiving a requisition in writing from the officer commanding such troops or militia, for such railway cars and engines, boats or other craft as are requisite for the conveyance of the said troops or militia, and their ammunition, stores, provisions and baggage, shall issue his warrant to such person or persons as are possessed of such railway cars and engines, boats or other craft within his jurisdiction, requiring him or them to furnish the same for that service, at and after the rate of payment to be allowed by the said justice, not exceeding the usual rate of hire for such railway cars and engines, boats, or other craft. And if any such person neglects or refuses, after receiving such warrant, to furnish such railway cars or engines, or boats or other craft for that service, such railway cars or engines, boats or other craft, may be impressed and taken for such service. But nothing herein shall impair the effect of any Act obliging any railway company to convey such troops, militia, and other articles aforesaid, in any manner or on any terms and conditions therein mentioned, or to release any such company from any obligation or penalty thereby imposed.

In case of emergency, boats, &c. may be required in like manner.

Rate of pay.

May be impressed on refusal to furnish.

As to railways.

OFFENCES AND PENALTIES.

159. All contraventions of this Act and of regulations or orders lawfully made or given under it, when the militia, or that portion thereof to which the offender belongs, is not called out for actual service, shall be punishable as hereinafter provided, and in such cases courts martial shall not be held.

Contraventions of Act or of regulations to be punished.

160. All articles of engagement entered into by volunteer corps, and previously approved by the commander-in-chief, in so far as they are not inconsistent with this Act, shall be enforced, and the penalties which may be thereby imposed shall, whenever they are incurred, be recoverable in the manner herein-after mentioned by the person or officer designated for that purpose in such articles to such uses as may be therein directed.

Articles of engagement of volunteers may be enforced.

161. Any officer or non-commissioned officer of the militia who obtains under false pretences, or who retains or keeps in his own possession with intent to apply to his own use or benefit, any of the pay or moneys belonging to any officer, non-commissioned officer, or private of any corps, shall be guilty of a misdemeanor, and shall be dismissed from the said militia force.

Unlawfully retaining moneys belonging to militiamen to be a misdemeanor.

162. Any person making an affidavit or declaration required in and by this Act, and swearing or declaring falsely therein, shall be guilty of perjury.

False swearing to be perjury.

163. Any officer of the militia refusing or neglecting to make or transmit, as herein prescribed, any roll or return, or copy thereof, required by this Act or by any lawful authority, or wilfully making any false statement in any such roll, return, or copy, shall thereby incur a penalty of forty dollars for each offence.

Refusal to make a roll, &c.

164. Any officer or non-commissioned officer of militia refusing or neglecting to assist his commanding officer in making any such roll or return, or refusing or neglecting to obtain or to assist him in obtaining any information which he may require in order to make or correct any roll or return, shall thereby incur a penalty of twenty dollars for each offence.

Refusing to assist in making rolls, &c.

165. Any militiaman or other person refusing or neglecting to give any notice or information necessary for making or correcting the roll of any company, and which he is required by this Act to give to the commanding officer of such company, or to any officer or non-commissioned officer thereof, demanding the same at any seasonable hour and place, shall thereby incur a penalty of ten dollars for each offence.

Refusing to give information for making roll.

166. Any militia officer, non-commissioned officer, or man, not exempt by commutation or otherwise under this Act from attending muster or training, who neglects or refuses to attend the same at the place and hour appointed therefor, or who refuses or neglects to obey any lawful order at or concerning such muster or training, shall thereby incur a penalty of not more than five dollars for each offence; and in case of training absence for each day shall be held to be a separate offence.

Neglecting to attend muster or misbehaving thereat, &c.

167. Any person who interrupts or hinders any militia at drill, or trespasses on the bounds set out by the proper officer for such drill, shall thereby incur a penalty of five dollars for each offence, and may be taken into custody and detained by any person by the order of the commanding officer until such drill be over for the day.

Hindering militia at drill.

168. Any officer, non-commissioned officer, or militiaman disobeying any lawful order of his superior officer, or guilty of any insolent or disorderly behaviour towards such officer, shall thereby incur a penalty of five dollars for each offence.

Disobeying orders, &c.

Not keeping
arms, &c. in
proper order.

169. Any officer, non-commissioned officer, or militiaman who fails to keep any arms or accoutrements delivered or entrusted to him in proper order, or who appears at drill, parade, or on any other occasion, with his arms or accoutrements out of proper order, or unserviceable, or deficient in any respect, shall incur a penalty of four dollars for each such offence.

Selling, without
leave, any
horse drilled
and approved
for any troop,
&c.

170. Any officer, non-commissioned officer, or man of any troop of cavalry or battery of field artillery, who, without the consent of the commanding officer of such corps, sells or disposes of any horse which has been drilled for the purposes of such corps, or which he has undertaken to furnish for such purposes, and which has been approved by the commanding officer of the corps, shall thereby incur a penalty of twenty dollars for each offence.

Unlawfully
disposing of
arms, &c.

171. Any person who unlawfully disposes of or removes any arms, accoutrements, or other articles belonging to the Crown, or who refuses to deliver up the same when lawfully required, or has the same in his possession, except for lawful cause (the proof of which shall lie upon him), shall thereby incur a penalty of twenty dollars for each offence; but this shall not prevent such offender from being indicted and punished for any greater offence if the facts amount to such, instead of being subjected to the penalty aforesaid. And any person charged with any act subjecting him to the penalty imposed by this section may be arrested by order of the magistrate before whom the complaint is made, upon affidavit showing that there is reason to believe that such person is about to leave the province, carrying any such arms, accoutrements, or articles with him.

Act to prevent
indictment.

Arrest of of-
fenders about
to leave the
province.

172. Any officer or man of a corps who, when such corps is lawfully called upon to act in aid of the civil power, refuses or neglects to go out with such corps, or to obey any lawful order of his superior officer or of any magistrate, shall thereby incur a penalty of twenty dollars for each offence.

Refusing to
turn out in aid
of civil power.

Refusing to
receive militia
billeted.

173. Any inhabitant householder who refuses or neglects to receive any troops or militia billeted upon him or to furnish them with the lodging and articles which he is by this Act required to furnish, shall thereby incur a penalty of eight dollars for each offence.

Refusing to
furnish car-
riages, &c.

174. Any person lawfully required under this Act to furnish any carriage, horse, or ox for the conveyance or use of any troops or militia, who neglects or refuses to furnish the same, shall thereby incur a penalty of eight dollars for each such offence.

Or any car,
engine, boat, or
craft.

175. Any person lawfully required under this Act to furnish any railway car or engine, boat, or other craft, for the conveyance or use of any troops or militia, who neglects or refuses to furnish the same, shall thereby incur a penalty of twenty dollars for each such offence.

Contravening
Act where no
penalty pro-
vided.

176. Any person who wilfully contravenes any enactment of this Act when no other penalty is imposed for such contravention, shall thereby incur a penalty of twenty dollars for each offence, but this shall not prevent his being indicted and punished for any greater offence if the facts amount to such.

Recovery of
penalties by
summary pro-
ceeding.

177. All penalties incurred under this Act shall be recoverable with costs by summary conviction on the evidence of one credible witness on complaint or information before one justice of the peace if the amount do not exceed twenty dollars, and before two justices of the peace if the amount exceeds that sum; and any officer, non-commissioned officer, or private shall be a competent witness in any such case.

Power of com-
mittal to gaol,
on non-pay-
ment of
penalty.

178. And in case of non-payment of the penalty immediately after conviction, it shall be lawful for the convicting justice or justices to commit the person so convicted and making default in payment of such penalty and costs to the common gaol of the territorial division for which the said justice or justices is or are then acting, or to some house of correction or lock-up house situate therein, for a period of not less than _____ days nor more than _____ days when the penalty does not exceed twenty dollars, and for a period of not less than _____ days nor more than _____ days when it exceeds the last-mentioned sum.

On whose
complaint pen-
alties may be
sued for.

179. No prosecution against an officer of militia for any penalty under this Act shall be brought except on the complaint of the adjutant general; and no such prosecution against any non-commissioned officer or private of the militia shall be brought except on the complaint of the commanding officer or adjutant of the battalion or corps or captain of the company or corps to which such non-commissioned officer or private belongs; but the adjutant general may authorize any officer of militia to make such complaint in his name, and the authority of any such officer alleging himself to have been so authorized to make any complaint, shall not be controverted or called in question except by the adjutant general.

Evidence of
authority to
sue.

Limitation of
time for prose-
cutions.

180. No such prosecution shall be commenced after the expiration of six months from the commission of the offence charged, unless it be for unlawfully buying, selling, or having in possession arms or accoutrements delivered to the militia.

To whom pen-
alties to be
paid.

181. The penalty when recovered shall be paid over to the town or staff adjutant who shall account for and pay it over to the receiver general.

MISCELLANEOUS PROVISIONS.

Orders and
notices need
not be in
writing, if
given in person.

182. It shall not be necessary that any order or notice under this Act be in writing, unless it is herein required that it shall be so, provided it be communicated to the person who is to obey or be bound by it in person, either directly by the officer or person making or giving it, or by some other by his order.

General orders
how notified.

183. All general orders of militia, or other militia orders issued through or by the adjutant general, shall be held to be sufficiently notified to all persons whom they may concern, by their insertion in the *Canada Gazette*; and a copy of the said gazette purporting to contain them shall be *prima facie* evidence of such orders.

Military district
or battalion
division orders
how notified.

184. All orders made by the commanding officer of a military district or of a battalion division, shall be held to be sufficiently notified to all persons whom it may concern, by their insertion in some newspaper published in such division, or, if there be none, then in some neighbouring division, and by posting

posting a copy thereof on the door of the church or of some court-house, mall, or other public place in each company division in such district or battalion division.

185. The production of a commission or appointment, warrant or order in writing, purporting to be granted or made according to the provisions of this Act, shall be *prima facie* evidence of such commission or appointment, warrant or order, without proving the signature or seal thereto, or the authority of the person granting or making such commission, appointment, warrant or order.

186. Every bond to the Crown entered into by any person under the authority of this Act, or according to any general order or regulations made under it, or for the purpose of securing the payment of any sum of money, or the performance of any duty or act hereby required or authorized, before any judge or justice of the peace, or officer therein authorized to take the same, shall be valid and may be estreated or enforced accordingly.

187. Every sum of money which any person or corporation is under this Act liable to pay or repay to the Crown, or which is equivalent to the damages done to any arms or other property of the Crown used for militia purposes, shall be a debt due to the Crown, and may be recovered in any manner in which such debts may be recovered.

188. Every action and prosecution against any officer or person, for anything done in pursuance of this Act, shall be laid and tried in Lower Canada in the district, and in Upper Canada in the county, where the act complained of was done, and shall not be commenced after the end of six months from the doing of such act, nor until one month's notice in writing of the action and of the cause thereof has been given to the defendant. And in any such action the defendant may plead the general issue and give this Act and the special matter in evidence at the trial. And no plaintiff shall recover in any such action if a tender of sufficient amends was made before the action was brought, or if a sufficient sum of money has been paid into court by the defendant after the action was brought.

189. If a verdict passes for the defendant in any action referred to in the next preceding section, or the plaintiff becomes non-suit or discontinues the action after issue joined, or if on demurrer or otherwise judgment is given against the plaintiff, the defendant shall recover his full costs as between attorney and client, and shall have the same remedy therefor as any defendant hath in other cases; and though a verdict is given for the plaintiff, he shall not have costs against the defendant, unless the judge before whom the trial has been had certifies his approbation of the action and the verdict therein.

190. All sums of money required to defray any expense authorized by this Act may be paid out of the consolidated revenue fund of this province upon warrant directed by the governor to the receiver general; and such warrants may be made in favour of the paymaster of militia, to enable him to pay such expense, or in favour of the party directly entitled to the money; but no sum of money shall be so paid out of the consolidated revenue fund until first approved of by resolution of the legislative assembly in the annual estimates.

191. A detailed account of all moneys advanced or expended under this Act shall be laid before each branch of the provincial parliament during the then next session thereof.

192. The interpretation Act shall apply to all regulations, orders and articles of engagement lawfully made or entered into under this Act.

193. The word "corps" shall, for the purposes of this Act, include any field battery, troop of cavalry, foot company of artillery or rifle company, or any battalion or regiment.

Evidence of commissions, warrants, &c.

Bonds entered into, in pursuance of this Act, to be valid.

Sums of money payable to Crown under this Act, how recoverable.

Protection of officers, &c. in pursuance of Act.

Limitation. Tender of amends.

If plaintiff be non-suit, &c. No costs against defendant except under judge's certificate.

Payment of moneys under this Act.

Proviso.

Accounting Parliament.

Interpretation Act.

Interpretation clause

No. 3.

No. 3.

COPY of a DESPATCH from His Grace the Duke of NEWCASTLE, K.G.,
to Governor-General Viscount MONCK.

(No. 133.)

MY LORD,

Downing Street, June 25, 1862.

I HAVE the honour to acknowledge the receipt of your Lordship's Despatches, Nos. 92* and 94, of the 30th of May and the 5th of June last, enclosing certified copies of twenty-four commissions appointing the gentlemen therein named to seats in the Executive Council of Canada and to the offices specified in the annexed list.

Page 3.

I have laid these commissions before Her Majesty, and I have received the Queen's commands to signify to you Her Majesty's approval of these appointments.

I have, &c.

Viscount Monck,
&c. &c.

(Signed) NEWCASTLE.

No. 4.

No. 4.

COPY of a DESPATCH from his Grace the Duke of NEWCASTLE, K.G., to
Governor-General Viscount MONCK.

(No. 163.)

MY LORD,

Downing Street, 21st August 1862.

Now that the session of Parliament has been brought to a close, I feel it my duty to call your lordship's attention, in a more formal manner than I have hitherto done since the rejection of the Militia Bill by the Legislature of Canada, and the consequent change of your Responsible Advisers, to the want of preparation for defence of the British North American Provinces in the event of an interruption of the present amicable relations of this country with the United States, and to the anxiety which was expressed upon this subject on more than one occasion, both in the House of Lords and in the House of Commons.

I trust that the general spirit of those debates will not have been misinterpreted. I feel no less confidence that the object of the present despatch will not be mistaken, as implying either mistrust of the Canadian people or an alteration by Her Majesty's Government of the view which they have frequently expressed of the relations which ought to exist between England and the Colony.

On the one hand the promptitude with which troops and stores were despatched last winter, with much inconvenience to the soldiers, and at no inconsiderable expense to this country, shows the readiness of England to defend Canada with the whole power of the Empire, whilst, on the other hand, the reception of those troops and the loyal enthusiasm of the people of Canada give ample assurance of the fact that Canada is attached to this country, and faithful to the Queen.

It cannot be denied, however, that the rejection of the Militia Bill has produced a disadvantageous impression on the minds of the English people. The public cannot be expected to see that the adoption or rejection of a particular measure may sometimes turn, not so much on the merits of the measure itself as on other considerations, though Her Majesty's Government are aware that Parliamentary tactics in a free Representative Assembly not unfrequently make that appear the real issue, which is in fact only the occasion. They do not, therefore, infer from the rejection of this measure that either the Canadian ministry or the Canadian people are reluctant to make proper provision for their own defence, but they do regret that at such a moment both should be exposed to misconstruction of their motives and intentions, not only by the people of England, but by those of the United States. Her Majesty's Government disclaim both the right and the desire to interfere in the party politics of Canada, and they would evince no concern in the late change of your advisers, if it were not connected with an event which appears to impugn the patriotism of her people.

If I urge upon you the importance of speedily resuming measures for some better military organization of the inhabitants of Canada than that which now exists, it must not be supposed that Her Majesty's Government is influenced by any particular apprehension of an attack on the Colony at the present moment, but undoubtedly the necessity for preparation which has from time to time been urged by successive Secretaries of State is greatly increased by the presence for the first time on the American continent of a large standing army, and the unsettled condition of the neighbouring States. Moreover, the growing importance of the Colony, and its attachment to free institutions, make it every day more essential that it should possess in itself that without which no free institutions can be secure—adequate means of self defence. The adequacy of those means is materially influenced by the peculiar position of the country. Its extent of frontier is such that it can be safe only when its population, capable of bearing arms, is ready and competent to fight. That the population is ready no one will venture to doubt, that it cannot be competent is no less certain until it has received that organization and acquired that habit of discipline which constitute the difference between a trained force and an armed mob. The drill required in the regular army, or even in the best volunteer battalions, is not necessary, nor would it be possible in a country like Canada, for so large a body of men as ought to be prepared for any emergency; but the Government should be able to avail itself of the services of the strong and healthy portion of the male adult population at short notice, if the dangers of invasion by an already organized army are to be provided against.

We have the opinions of the best military authorities, that no body of troops which England could send would be able to make Canada safe without the efficient aid of the Canadian people. Not only is it impossible to send sufficient troops, but if there were

four times the numbers which we are now maintaining in British North America, they could not secure the whole of the frontier. The main dependence of such a country must be upon its own people. The irregular forces which can be formed from the population know the passes of the woods, are well acquainted with the country, its roads, its rivers, its defiles, and for defensive warfare (for aggression they will never be wanted), would be far more available than regular soldiers.

It is not, therefore, the unwillingness or the inability of Her Majesty's Government to furnish sufficient troops, but the uselessness of such troops, without an adequate militia force, that I wish to impress upon you.

In your Despatch of the 17th May last, you informed me that there were then 14,760 volunteers enrolled, besides others who had been more or less drilled. It is far indeed from my intention to discredit either the zeal or the efficiency of these volunteers, who have, I hope, greatly increased in number since the date of your Despatch, but they constitute a force which cannot suffice for Canada in the event of war. They might form an admirable small contingent, but what would be required would be a large army; they might form a force stronger than is necessary in time of peace to secure internal tranquillity, but would be inadequate to repel external attack in time of war. Past experience shows that no reasonable amount of encouragement can raise the number of volunteers to the required extent.

It appears to me that the smallest number of men partially drilled which it would be essential to provide within a given time is 50,000. The remainder of the militia would of course be liable to be called upon in an emergency. Perhaps the best course would be to drill every year one or more companies of each battalion of Sedentary Militia. In this manner the training of a large number of men might be effected, and all companies so drilled should once at least in two years, if not in each year, be exercised in battalion drill so as to keep up their training.

I put forward these suggestions for the consideration of the Canadian Government and Parliament, but Her Majesty's Government have no desire to dictate as to details, or to interfere with the internal government of the Colony. Their only object is so to assist and guide its action in the matter of the militia as to make that force efficient at the least possible cost to the Province and to the Mother Country.

The Canadian Government will doubtless be fully alive to the important fact that a well organized system of militia will contribute much towards sustaining the high position with reference to pecuniary credit which, in spite of its large debt and its deficient revenue for the last few years, the Colony has hitherto held in the money markets of Europe. A country which, however unjustly, is suspected of inability or indisposition to provide for its own defence, does not, in the present circumstances of America, offer a tempting field for investment in public funds or the outlay of private capital. Men question the stable condition of affairs in a land which is not competent to protect itself.

It may no doubt be argued on the other hand that the increased charge of a militia would diminish rather than enlarge the credit of the Colony. I am convinced that such would not be the case if steps were taken for securing a basis of taxation sounder in itself than the almost exclusive reliance on customs' duties. It is my belief that a step in this direction would not only supply funds for the militia, but remove all apprehension which exists as to the resources of the Colony.

Whatever other steps may be taken for the improved organization of the militia, it appears to Her Majesty's Government to be of essential importance that its administration and the supply of funds for its support should be exempt from the disturbing action of ordinary politics. Unless this be done there can be no confidence that in the appointment of officers, and in other matters of a purely military character, no other object than the efficiency of the force is kept in view. Were it not that it might fairly be considered too great an interference with the privileges of the representatives of the people, I should be inclined to suggest that the charge for the militia, or a certain fixed portion of it, should be defrayed from the Consolidated Fund of Canada, or voted for a period of three or five years.

It has further occurred to me that the whole of the British Provinces on the continent of North America have in this matter of defence common interests and common duties. Is it impossible that with the free consent of each of these Colonies one uniform system of militia training and organization should be introduced into all of them? The numbers of men to be raised and trained in each would have to be fixed, and the expenses of the whole would be defrayed from a common fund contributed in fair proportion by each of the Colonies. If the Governor-General of Canada were commander-in-chief of the whole, the Lieutenant-Governors of the other Colonies would act as Generals of Division under

him, but it would be essential that an Adjutant-General of the whole force, approved by Her Majesty's Government, should move to and fro, as occasion might require, so as to give uniformity to the training of the whole and cohesion to the force itself.

As such a scheme would affect more than one Colony, it must of course emanate from the Secretary of State, but Her Majesty's Government would not entertain it unless they were convinced that it would be acceptable both to the people of Canada and to the other Colonies, and they desire to know, in the first instance, in what light any such plan would be viewed by the members of your Executive Council. I understand that the Lieutenant-Governors of Nova Scotia and New Brunswick availing themselves of the leave of absence lately accorded to them, intend to meet you in Quebec in the course of the ensuing month. This visit will afford you a good opportunity for consulting them upon this important question.

The political union of the North American Colonies has often been discussed. The merits of that measure and the difficulties in the way of its accomplishment have been well considered, but none of the objections which oppose it seem to impede a union for defence. This matter is one in which all the Colonies have interests common with each other and identical with the policy of England.

I conclude by again urging upon you the necessity for an early decision upon this most important question. I should hear with very great satisfaction that your Government had decided upon advising you to summon the Parliament of Canada to meet at an early period, so that the winter shall not pass over without obtaining from the Legislature such powers as may enable you to commence a well arranged military organization of the Provinces, and prepare for such emergencies as, though they cannot be accurately foreseen, it must be evident to everybody may possibly arise, and are at present very inadequately provided for. It is in time of peace that preliminary measures of defence should be perfected, so that in the event of war they may be found so far ready as to ensure that an enemy shall not obtain a footing in the country before aid is forthcoming from other portions of the Empire.

I have, &c.

(Signed) NEWCASTLE.

To Governor-General Viscount Monck.

&c. &c. &c.

No. 5.

COPY of a DESPATCH from Governor-General Viscount Monck to His Grace the Duke of NEWCASTLE, K.G.

(No. 147.)

Government House, Quebec, October 30, 1862.

(Received 14 November 1862.)

MY LORD DUKE,

(Answered No. 197, 20 December 1862, page 51.)

YOUR Grace is already aware of the receipt by me of your Despatch, (No. 163,*) of August 21st, on the subject of the Militia Organization in Canada.

2. Immediately on receiving that Despatch I referred it to my Executive Council for their consideration and report. I did not press for any immediate answer, as the subject is one of considerable present importance, and opens up questions calculated to exercise great influence on the future relations of the Empire and the Province. The recent advent to power of my present advisers rendered it therefore only a matter of fairness that full time should be allowed them to discuss and decide an issue of so much moment.

3. A short time since the ministry announced to me that it was the intention of two prominent members of the Executive Council to proceed soon to London as a delegation from the Government of this Province to Her Majesty's Government on important colonial business. As the departure of these gentlemen from Canada would necessarily adjourn the consideration of the subject of Militia Organization until their return, I requested that before the Executive Council should be deprived of their assistance, the Government would furnish me with a report on the Despatch of your Grace, and a statement of their policy in reference to the matter alluded to in it.

4. I have now the honour to transmit to your Grace the accompanying Report of the Executive Council, authenticated by my signature, on the Despatch referred to it.

5. I will not enter into the discussion of any abstract theories as to the relation which should subsist between England and her Colonies in reference to colonial defence, because your Grace's Despatch is professedly only suggestive, and does not seek authoritatively to fix the degree in which the mother-country and the colony should each contribute to that object, and the admission on the part of the colonial government that anything

No. 5.

* Page 40.

Encl. 1.
28 Oct. 1862.

should be done by them in the way of defensive preparation is a proof that the difference of opinion, if any, existing between your Grace and the Executive Council of Canada is one of degree only and not of principle. I think too that it is my duty rather to apply myself to the practical proposition put forward. I will, therefore, proceed to put your Grace in possession of my opinion as to the efficiency of the plan of organization embodied in the accompanying report.

6. In order to make my remarks fully understood, I must draw your attention to the present condition of the Militia Force of the Province as regulated by the existing law.

7. Your Grace is aware that what is called the Sedentary Militia embraces the whole male population of the colony between the ages of 18 and 60. The men are divided into battalions regularly officered; but from the circumstance that this battalion organization is territorial in its character, it is obvious that it is not available for the purpose of actual service, because if you called out for service a battalion of the Sedentary Militia, you would depopulate of its male inhabitants the district to which the battalion belonged, and would leave wholly untouched the population of the surrounding districts.

8. It is therefore evident that in the event of circumstances arising which would necessitate the calling out of the militia for defensive purposes, the regimental or battalion organization of the Sedentary Militia would afford no help towards embodying the men in battalions so as to render them useful for actual service. Some mode of performing this necessary work would have to be extemporized at a moment of comparative alarm and confusion, and the necessity for this would certainly cause great loss of time, if it would not lead to the entire failure of the attempt to raise an effective force.

9. I have entered into this explanation because I am convinced that the want of any preliminary organization pervading the whole country is the great difficulty which would have to be practically encountered if Canada should now be compelled to defend herself against foreign attack, and that any system of preparation for defence which failed fully to meet this difficulty would be comparatively worthless.

10. The plan of the government contained in the accompanying report may be stated as follows:—

1. Brigade majors are to be appointed in each district.
2. Drill associations to be formed of officers and non-commissioned officers of Sedentary Militia, who are to be superseded if they refuse to learn their drill.
3. Enrolment is to be "secured" of a fixed quota in each district of first-class service men in companies and battalions with officers.
4. Volunteers in future to be clothed, but none paid.
5. Drill rooms, armouries, and rifle ranges to be procured for the volunteers as circumstances permit.

It will be seen that the Executive Council proposes to deal with the difficulty above referred to in this manner. It proposes that the brigade majors throughout the country should "secure the enrolment" in companies and battalions within their district of such quota as should be appointed of the first-class service men (unmarried men and widowers without children between the ages of 18 and 45).

11. This enrolment appears to be entirely independent of the Volunteer or Active Force organization, and instead of consolidating and systematizing the voluntary action of the people appears to me more likely to confuse their minds by the introduction of a third system of enrolment in addition to that of the Sedentary Militia and the Active Force.

12. This enrolment is meant to supply the want of any organization now in existence, by means of which, on a sudden emergency, a portion of the militia might be embodied for active service in a short space of time, but unless the men whose names are enrolled are put on the same footing with regard to their engagement for service as the active force, who bind themselves to serve for five years, there is no security that the enrolment will ever produce any practical result, as there is nothing to compel the enrolled men to serve when called on.

13. There does not appear to be any inducement held out to men to place their names on these lists or to serve when called on, in the way of supplying them with arms, clothing, or any other benefit, to excite or maintain a military spirit amongst them. It is in fact an attempt to re-introduce in a worse form Class B. of the active force, which it is proposed by this Report to abolish, on the ground of the unsatisfactory manner in which the distinction of classes in that force operated (Class B. in the active force is that portion of the volunteers which has hitherto served without pay, in contradistinction to Class A., which received a certain amount of pay each year). I therefore think the measure would prove entirely nugatory, and that without some inducement no men would give their names, and that it will, therefore, fail to provide what I feel certain is the great

desideratum of the defensive force in Canada, namely, a machinery erected in time of peace by means of which, at the approach of war, an organized and embodied force could be at short notice turned out.

14. The plan proposed does not, as regards system or organization, touch the volunteer force of the country at all, nor does it propose to give any effectual form or direction to the excellent spirit by which the people are animated.

15. On the whole, I cannot conceal from your Grace my opinion that, as regards the cardinal necessity of the time, a systematic organization of the forces of the colony for defensive purposes, the plan indicated by the government contains no principles calculated to produce effective results, and that the only attempt made to grapple with the difficulties of the subject will prove completely illusory.

16. With respect to the other proposals of the Government I do not find any fault. It is highly desirable to foster a military spirit in and to promote the acquisition of military knowledge by a people circumstanced as the Canadians are, and the measures proposed to be adopted seem to me, as far as they go, calculated to promote these ends.

17. I entirely approve of the abolition of the distinction between Class A. and Class B. in the active force, and of the proposal that in future the Government shall supply to the volunteers everything necessary for their equipment and drill. Class A. of the volunteers giving up for the future their distinctive claim for pay and being put on the same terms as Class B.

18. The question of militia organization has been argued all through this Report, as if the only choice that existed consistently with the maintenance of a moderate expenditure on the militia was between the plan indicated by the present government, and that brought forward by my late advisers and rejected by Parliament. In order that there may be no misapprehension on this point, I beg leave to place before your Grace the enclosed heads of a plan for the organization of a militia force of 50,000 men, a copy of which I gave to the head of the Government when I desired a report on your Despatch.

Encl. 2.

19. It will be seen from the estimate appended to this memorandum that, supposing the expense to be spread over a period of five years, the annual cost to the colony of this system would not be much, if at all, beyond the sum appropriated for militia purposes in the last session.

20. Although the supply of men by means of the ballot is named in this memorandum as an alternative if a sufficient number should not be produced by the plan of volunteering, it forms no essential part of the scheme; and my own confident conviction is, that so loyal is the spirit of the people, and so strong their desire to put themselves in a position effectively to defend their homes and institutions, that the number of men proposed to be raised would have been easily obtained by the voluntary action of the population.

21. Under this plan it was proposed to leave the drill to the spontaneous desire of the people for learning it, to provide them with all the means for acquiring military knowledge, and permit them to adopt the times and seasons most convenient to themselves for its acquisition.

22. I have a strong conviction that if this or some similar plan were put in operation, a very large amount of drill would be voluntarily submitted to by a considerable proportion of the inhabitants of Canada. The citizen soldiers of the Province would become personally interested in improving their discipline, and increasing their knowledge of the military art, a spirit of emulation amongst different corps would arise, the complete battalion organization would enable the different regiments to turn out for field exercise on holidays and other periods at which they might desire to do so;—and on the first outbreak of war the Province would have an army possessed not only of the will, which is common to all Canadians, but of the power “to ensure that an enemy should not obtain a footing in the country before aid is forthcoming from other portions of the Empire.”

23. And all this would be done by merely giving systematic form to the voluntary action of the people without in any way interfering with their industrial pursuits, trenching on their personal freedom of action, or imposing additional pecuniary burdens on the Province.

24. With regard to the suggestion contained in your Grace's Despatch as to the consolidation into one force of the militias of the British North American Provinces, I did not fail to consult the Lieutenant-Governors of New Brunswick and Nova Scotia when they were here last month. The conclusion we arrived at is similar to that expressed in the Report of the Executive Council of this Province, namely, that the means of communication are not as yet sufficiently easy to enable the three Provinces beneficially to avail

themselves of the services of a common head to their militia forces, so that even if other difficulties in the way of the plan did not suggest themselves, that would in itself be a bar to the scheme for the present. I do not myself believe that the move would be acceptable either to the Canadians or to the inhabitants of the Lower Provinces.

I have, &c.

His Grace the Duke of Newcastle, K.G.

(Signed) MONCK.

&c. &c. &c.

Enclosure 1 in No. 5.

Encl. in No. 5

COPY of a REPORT of a Committee of the whole Council, dated 28th October 1862.

Approved by his Excellency the Governor General.

The Committee of the Executive Council respectfully recommend that a copy of the accompanying memorandum be transmitted by your Excellency to the Secretary of State for the Colonies, as containing the views of your Excellency's advisers on the question discussed in his Grace's Despatch of the 21st August 1862.

Certified, Wm. H. Lee, C.E.C.

The Committee of the Executive Council have had under their consideration the Despatch of his Grace the Duke of Newcastle, of the 21st of August last.

In this Despatch his Grace directs attention to the present state of the defences of this Province, to the anxiety which is entertained by the British Government in regard to them, and to the measures which, in his Grace's judgment, are necessary—on one hand to fulfil the expectations of Great Britain, and on the other to place Canada in a position to meet any emergency. His Grace alludes to the misapprehension produced in the minds of the English people by the rejection of the Militia Bill prepared by their predecessors, justly remarking, however, that that proceeding on the part of the Provincial Parliament does not afford evidence of an unwillingness to make proper provision for the defence of the Province.

Whilst disclaiming both the right and the desire to interfere in the politics of Canada, his Grace urges the importance of speedily resuming "measures for some better military organization of the inhabitants of Canada than that which now exists," and he proceeds to set forth certain suggestions of Her Majesty's Government in reference to this subject. The opinions of military authorities are appealed to, to show that any troops furnished by England would be unequal to the protection of Canada, without the efficient aid of its own people; and suggestions are offered in regard to the form in which this aid may be most advantageously rendered. His Grace states that the population capable of bearing arms should receive that organization, and acquire that habit of discipline which constitute the difference between a trained force and an armed mob, and that fifty thousand is the "smallest number of men" which the Province should have in a partial state of familiarity with drill and other military duty.

It is recommended that one company of each battalion of Sedentary Militia, or more, should be drilled every year, that the training of a large number of men may thus be gradually effected. Preparations of this character and to this extent are calculated, his Grace remarks, to maintain and improve the credit of the Province in the money markets of Europe. In conformity with this view, his Grace expresses himself convinced of the desirableness of steps being taken to secure a basis of provincial taxation apart from customs' duties, and the better to secure the permanence of such an organization as his Grace proposes, he recommends "that its administration, and the supply of funds for its support, should be exempt from the disturbing action of ordinary politics." The expediency of defraying the charge for the militia, or a certain fixed portion of it, from the consolidated fund of Canada, or voting it for a period of three or five years, is further suggested as a means of removing the militia question from the arena of party politics. Another aspect of the question is presented by his Grace, namely, the desirableness of uniting the defensive measures of Canada with the defensive measures of the other British Provinces on the American continent, "that one uniform system of militia training and organization" may be introduced into all of them; such a scheme, it is added, must emanate from Her Majesty's Government, and the opinion of your Excellency's advisers is desired in relation to it, his Grace being of opinion that a union for defence may precede any political union of the North American colonies.

The Despatch of his Grace involves matters of the highest importance, and affirms a principle which, for the first time, comes in a practical shape before the people of Canada. Your Excellency's advisers have not been unmindful of the discussions upon the subject which have taken place in the Imperial Parliament, but, until now, they have not been called upon to consider the principles of a policy so gravely affecting the relations of Canada to the mother-country.

The friendly spirit in which his Grace has conceived his Despatch will be cordially reciprocated by the Canadian people. The promptitude and liberality with which Her Majesty's Government provided for the protection of the Province when, on a recent occasion, danger seemed to menace it, are fully appreciated, and it is gratifying to know that the loyalty and ardour manifested by Canada in an emergency which her people had done nothing to produce, and were wholly unable to prevent, are, in turn, duly understood and valued by the Home Government.

It is not doubted that the same mutual regard and confidence will be exhibited in any communication or negotiation which may follow his Grace's Despatch. At the same time, however, it is felt that in dealing with a question, affecting so deeply the present and future welfare of the Province, care should be taken to base any arrangements that may be entered into upon something more solid than sentiment, more enduring than any proposal not recognizing the rights and interests of the Canadian people.

Before proceeding to express an opinion upon the propositions contained in his Grace's Despatch your Excellency's advisers cannot refrain from recalling the circumstances under which they assumed the responsibilities of office. Their predecessors, they cannot forget, presented to Parliament a scheme which failed to obtain the support of that body, and which, so far as can be ascertained, was extremely distasteful to the country. It failed of success not only on the ground that the method of enrolment proposed was in itself highly objectionable, but because it established a machinery cumbrous in its character, at variance with the habits and genius of the Canadian people, and entailing an expenditure far in excess of the sum which the legislature and the people have declared themselves willing to provide. The rejection of the measure by a majority of the Legislative Assembly was the result, not of party combinations, but of a deliberate conviction that its principle was unadapted to the occasion, that the more striking of its features were obnoxious to the Province, and that the financial resources available for military purposes were unequal to the outlay that would have followed the enactment of the bill.

The volunteer organization, Your Excellency's advisers were convinced, is that alone through which the military spirit of the people must find vent in a period of peace. In case of actual emergency, your Excellency's advisers are persuaded the response to an order calling out the militia would be unanimous; but there is a decided aversion to compulsory service, except in the presence of actual danger.

With their knowledge of the unwillingness of the people to act under the compulsory system; with the very strong and general expressions of preference for the volunteer system, which secures to them the choice of company officers, and with proofs of the growing vigour of the volunteer organization under circumstances of dubious encouragement, your Excellency's advisers first entered upon the consideration of the question which had led to the defeat and resignation of their predecessors. The view entertained by Parliament, and, as its members believed, reflected in the disposition of the people, is that which commended itself to the judgment of the Executive Council. They addressed themselves to the subject therefore, anxious to lay the foundation of an efficient defensive organization, but convinced of the necessity of consulting the public will so far as the voluntary nature of the organization is concerned, and convinced also of the necessity of so adjusting the expenditure as not to add to the embarrassments which were then, and still are, among the chief obstacles to every new enterprise originating with the Government.

In this spirit amendments were made to the militia law previously in force, the aim of the new Government being to infuse vitality into the voluntary branch of the service, to encourage the formation of volunteer companies in rural districts, and to provide measures for the better disciplining of the force. The appropriation made by Parliament for these purposes was largely in excess of the vote for the previous year, and was fully as large as the circumstances of the Province would justify a Government in asking at the hands of the Legislature, except in the presence of emergencies which, as yet, do not exist. In 1861 the appropriation was \$84,970, in 1862 \$250,000.

Faithfully carrying out this line of policy, no time was lost in taking steps to ascertain the actual condition of the volunteer force, as preliminary to taking steps for its improvement. An officer of experience and ability was entrusted with the task of inspecting and reporting upon the active companies, and his enquiry is on the point of completion. In addition, drill instructors have been detailed at a considerable cost to the Province, for the better training of volunteers. To what extent these measures have been productive of benefit does not yet fully appear; it is known, however, that the drill instruction has been turned to a good account, and that the visits of the officer alluded to (Colonel Wily), in connection with the more thorough drill, have stimulated the desire for further companies, and for the thorough effectiveness of those already recognized. Enough is known to justify the statement that immediately after the receipt of Colonel Wily's report, a considerable number of new companies will present themselves for the sanction of your Excellency.

Without entering into the minute details of plans not altogether matured, the Executive Council think proper to state, in reference to the continued improvement of the force, that the act to amend the militia law provides that "the commander in chief may appoint brigade majors, not exceeding one for each military district." It is intended, with the least possible delay, to present to your Excellency for approval a list of officers qualified to fill these important positions. The utmost care will be taken in the selection of individuals qualified by knowledge, experience, and character, for the proper discharge of the duties pertaining to the office. These duties will include the inspection and control of such volunteer companies and battalions as may be within the limits of each district, and the formation of drill associations, to be composed of the officers and non-commissioned officers of the several battalions of the Sedentary Militia, with a view of conveying to them, to borrow the language of your Excellency, "such a knowledge of and proficiency in their drill and military duties, as will enable them to impart from time to time the knowledge thus acquired to those who may be under their command."

The brigade majors will further be instructed, on assuming their duties, to secure the enrolment of such quota as may be ordered from the first class service men within the district, first into companies, and wherever practicable, into battalions, under officers qualified to command them; and thus, in addition to the volunteers contemplated under the amended Act of last session, an organization more efficient for calling out the first class service men than any hitherto known, may be expected. A spirit of emulation will thus be produced, which will assuredly tend to the general improvement of the companies of the several battalions in discipline and drill. In no other way can this result be attained in the rural districts. It is also designed to obviate one of the principal causes of dissatisfaction amongst the larger proportion of volunteers by removing the distinction hitherto maintained between classes A and B of the volunteer force, so that without injustice to class A, class B may be placed in the possession of advantages hitherto withheld. Under the intended change, the two classes will be placed on an equality in respect of the supply of clothing, which will, in future, be furnished to all. As the clothing has been the chief difficulty in the way of the formation of volunteer companies, it is believed that the supplying of it by the Government, coupled with a payment in lieu of clothing to companies already provided with uniforms, will prove in the highest degree satisfactory. Nor are the Executive Council unmindful of the reasonable claim which, under certain circumstances, may be preferred by volunteer companies for the construction or

acquisition of armouries, rifle ranges, and drill rooms. It is considered unwise however to make any general promise upon these points, or to pledge the Province to any considerable expenditure on account of them. The need really exists in central localities, the demand of which will be duly considered and acted upon from time to time.

The importance of battalion drill is too obvious to be denied. Its enforcement must, however, be regulated by its practicability. In the cities and larger towns it may be carried on, not only without additional cost, but without entailing upon the volunteers extra sacrifices or trouble. In the rural districts the case is different. With a sparse population, averaging less than three inhabitants to the square mile throughout Canada, engaged in agricultural pursuits, and for the most part struggling with the hardships and difficulties incident to a country in which capital is scarce, and a large portion of which remains to be reclaimed, any drill remote from the residence of the volunteers is impossible. It is not simply a question of pay. Nothing is more certain than the unwillingness of volunteers so situated to absent themselves from their immediate neighbourhoods for purposes of military instruction, not merely because of their inability to dispense with pay, but because of the extent to which the absence would interfere with pursuits that cannot be interrupted without injury to themselves and loss to the country. Their farms require their unremitting attention; the scarcity of hired labor being too serious and constant to allow of absence on the part of the settlers themselves. In the event of war, no doubt, these hindrances would not keep back the able bodied population from the service of the country; but they are averse to interference, except on occasions of grave necessity; and in the opinion of the Executive Council, it is not desirable to excite discontent amongst them by any premature attempt at exact compulsory service.

The battalions in the Province number 463, with officers and non-commissioned officers, amounting in the aggregate to 27,780, or an average of 60 to each battalion. Assuming that of these an average of three fourths obey the order for drill instruction in the manner already indicated, a total of 20,835 will be qualified for general drill instructors.

The argument against enforced drill, as applied to the rank and file of the militia, does not bear upon the officers of the Sedentary Force who now hold commissions. They at any rate may be required to qualify themselves, and it is intended very shortly to call upon them to undergo drill in the manner already indicated, that they may be prepared at any moment to enter upon the discharge of the duties attaching to their several positions. Desiring the honour of militia distinction, they must make up their minds to prove their fitness for it, and, failing to do this, the Executive Council think that there should be no hesitancy in setting them aside, and replacing them with worthier men.

Your Excellency's advisers have thus endeavoured to exhibit the policy which, in their judgment, is best suited to the circumstances of the Province, and the habits of its people. They point with confidence to what they have done, and what they are prepared to do, as evidence of their determination to fulfil their duty in regard to the defence of the Province. They have held office less than five months, and their exertions during that brief period have been neither slight nor unproductive. Whatever differences of opinion exist here or in England as to the merits of particular parts of their scheme, at least they have proved how fully they appreciate the importance of the subject of his Grace's despatch; and they look forward without any misgivings to the realization of results which will vindicate the wisdom, patriotism, and loyalty of the course they have pursued.

Unquestionably the plan proposed is in part experimental; everything of the kind must be so at the outset. Military tastes and aspirations have not been cherished by our people, and the attempt is now for the first time to be made to accustom them to labours and duties other than those of peaceful life. In entering upon this task the Government cannot too carefully consult the feelings and habits of those on whom reliance must be mainly placed in the presence of danger, the more youthful and active part of the population embraced in the Sedentary Force. The question for the Government to consider is, how best to accomplish this end; and time and experience are required, not only to test the sufficiency of measures now, or soon to be, in operation, but to remove the prejudice with which military service is regarded, and to enable those charged with the administration of affairs to ascertain the feasibility of a more extended scheme; it is possible that some further legislation may be called for to remedy defects which only experience can reveal; and your Excellency's advisers will be prepared to address themselves to the subject so soon as it shall come before them in a practicable shape, adhering faithfully to the general principles of the policy herein set forth, but widening and modifying their action in conformity with the teaching of their present trial.

The proposal of his Grace to organize and drill not less than 50,000 men is not now for the first time presented to the Province. The measure prepared by the late Government, and rejected by the legislature, contemplated the formation of a force to that extent, and your Excellency's advisers cannot disguise their opinion that the Province is averse to the maintenance of a force which would seriously derange industry and tax its resources to a degree justifiable only in periods of imminent danger or actual war.

The people of Canada doing nothing to produce a rupture with the United States, and having no knowledge of any intention on the part of Her Majesty's Government to pursue a policy from which so dire a calamity would proceed, are unwilling to impose upon themselves extraordinary burthens. They feel that should war occur, it will be produced by no act of theirs, and they have no inclination to do anything that may seem to foreshadow, perhaps to provoke, a state of things which would be disastrous to every interest of the Province. On this ground their representatives in Parliament assembled rejected the proposition to organize 50,000 men, or, indeed, to commit the Province to a much smaller force; and recent elections in various localities, embracing more than one third of the population of the Province, have shown that, in this respect, public feeling has undergone no change. So far as is known, not a single candidate has ventured to declare himself in favour of a measure so extensive as that which was prepared by the late Government, and is now again recommended by his Grace. Your Excellency's advisers therefore find themselves fortified by public opinion. Their own estimate of what is required, and of what may most advantageously be done, is confirmed by the calm judgment of the people.

His Grace recommends "a basis of taxation sounder in itself than the almost exclusive reliance on customs' duties;" the evident intention being by direct taxation to obtain an increase of income commensurate with the increase of expenditure which would follow the organization of the large force proposed. Without entering into a discussion of the relative merits of direct and indirect taxation, your Excellency's advisers feel that it would not be prudent, suddenly or to any large extent, to impose direct taxation for military purposes. This is not the occasion for adopting a principle hitherto unknown in the fiscal policy of the Province, and assuredly this is not the time for plunging into an experiment for which the people of the Province are unprepared. No more serious mistake can be committed than to conduct an argument upon the supposition that the ability of the Canadian people to sustain taxation is greater than has hitherto been acknowledged in the fiscal arrangements of the Government. The wealth of the country is in its lands. If the people are in the enjoyment of comparative wealth, it is so invested as to be not readily available for the production of a large money income. Your Excellency's advisers believe that no government could exist that would attempt to carry out the suggestion of his Grace for the purpose designed.

The maintenance of the Provincial credit abroad is undoubtedly an object which the administrators of the affairs of the Province should, at any cost, accomplish. Your Excellency's advisers submit that their various measures demonstrate the sincerity with which they are striving to preserve the public credit unimpaired. They contend, however, that not the least important of the agencies to be employed to this end, is the exhibition of a due regard to the means at the command of the Province. They hold that they are more likely to retain the confidence of European capitalists by carefully adjusting expenditure to income, than by embarking in schemes, however laudable in themselves, beyond the available resources of the Canadian people. That they are not willing to try to the utmost to comply with the suggestions of the Imperial Government is evinced in the manner in which the projected intercolonial railway has been entertained. Their conduct in this matter should relieve them from every imputation. At the same time, they insist that they are, and must be, allowed to be the best judges of the pressure which the Provincial credit can sustain. They are prepared, subject to certain conditions, to encumber this credit with liabilities arising out of the inter-colonial Railway, but they are not prepared to enter upon a lavish expenditure to build up a military system distasteful to the Canadian people, disproportionate to Canadian resources, and not called for by any circumstance of which they at present have cognizance.

Another suggestion embraced in his Grace's Despatch is well calculated to excite surprise. Your Excellency's advisers allude to that portion of the Despatch in which his Grace purposes to remove the control of funds required for militia purposes from the domain of Parliament. His Grace is evidently aware that the proposition wears the aspect of "an interference with the privileges of the representation of the people," and it is certain that any measure liable to this construction never will be, and ought not to be, entertained by a people inheriting the freedom guaranteed by British institutions. The Imperial Parliament guards with jealous care the means of maintaining the military and naval forces of the Empire. Its appropriations are annually voted, and not the most powerful minister has dared to propose to the House of Commons the abandonment of its controlling power for a period of five years. If the disturbing action of ordinary "politics" is a reason for removing the final direction of military preparations from Parliament, it is in every sense as applicable in England as in Canada. What the House of Commons would not under any circumstances of danger entertain, is not likely to be entertained by the Legislature of Canada. Whatever evils are incident to representative institutions, the people of a British Province will not forget that they are trivial in comparison with those which are inseparable from arbitrary authority. Popular liberties are only safe when the action of the people restrains and guides the policy of those who are invested with the power of directing the affairs of the country. They are safe against military despotism, wielded by a corrupt government, only when they have in their hands the means of controlling the supplies required for the maintenance of a military organization.

"A union for defence" is proposed by his Grace the Secretary of State for the Colonies. A union of the British North American Provinces for the formation and maintenance of one uniform system of military organization and training, having a common defensive fund, and approved by Her Majesty's Government; a union whose details would "emanate from the Secretary of State," and whose management would be entirely independent of the several local legislatures. Your Excellency's advisers have no hesitation in expressing the opinion that any alliance of this character cannot at present be entertained. An inter-colonial railway seems to be the first step towards any more intimate relations between the British North American Provinces than those which now exist. The construction even of this work is by no means certain, although this Government, looking at it mainly as a measure of defence, has entertained the preliminaries in common with delegates from the Provinces of Nova Scotia and New Brunswick. It is premature just now to speculate upon the possible political consequences of an undertaking which may never be consummated; certain it is, however, that there can be no closer inter-colonial union of any kind until increased facilities for inter-communication are provided, and equally certain that the Provinces, supposing them to be hereafter united, will never contribute to an expensive system of defence, unless it be subject to their own control. Speaking for Canada, your Excellency's advisers are sure that this Province will continue to claim the exclusive right of directing the expenditure of the public monies.

Your Excellency's advisers now turn to the general principle which underlies the argument of his Grace. That the right of self-government has for a correlative duty the maintenance of provision for defence is a proposition which, in the abstract, is indisputable; but it is only indisputable in the case of governments of states which are sovereign in themselves, as between a colony and the parent state it cannot be said to exist in the same sense.

A British colony must submit to all the consequences of conflict produced by the policy which Her Majesty's Government may carry out in the interest of the Empire at large. It is not enough that a colony endowed with self-government provides for the preservation of peace and order within its own boundaries; it is not enough that a colony so situated must endure all the consequences of a line

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of action which its own legislators have no voice in originating, and toward the termination of which they can do nothing; a further responsibility is held to attach to the colonial relation. The colony, although the theatre of ruinous hostilities, must furnish its quota in aid of the Imperial army, and contribute a share to the attendant expenditure.

In the case of Canada, the strongest advocates of the new theory of the colonial relation are compelled to admit that an exception to the general rule must be made; even they who demand the withdrawal of all troops from self-governing colonies are obliged to concede that some special allowance must be made in favour of Canada. Their reasons for an exceptional policy towards this Province are apparent. Situate on the border of a vast and powerful Republic with a frontier extending upwards of a thousand miles, with no deep back country to sustain it, and accessible in case of war at numerous points, it is admitted that Canada should be assisted to the full extent of the Imperial resources. The Despatch of His Grace seems in some measure to conflict with this view. His Grace, while promising liberal assistance, contends that any available supply of regular troops would be unequal to the defence of the Province, and that "the main dependance of such a country must be upon its own people for defence." Your Excellency's advisers would not be faithful to their own convictions or to the trust reposed in them, if they withheld an expression of their belief that without very large assistance any efforts or sacrifices of which the people of the Province are capable would not enable them successfully, and for any lengthened period, to repel invasion from the neighbouring Republic. They have relied for protection in some degree upon the fact that under no conceivable circumstance will they provoke war with the United States; and if, therefore, Canada should become the theatre of a war resulting from Imperial policy, while it would cheerfully put forth its strength in defence of its soil, it would nevertheless be obliged to rely for its protection mainly upon Imperial resources; and in such an event it is their opinion that they would be justified in expecting to be assisted in the work of defence with the whole strength of the Empire.

It is not necessary at this stage of their history to put forward assurances of the readiness of the Canadian people to assume whatever responsibilities belong to them as subjects of Her Majesty; their devotion has been exhibited too often to be open to doubt or depreciation. They have made sacrifices that should relieve them from suspicion, and which Her Majesty's Government should remember as a pledge of their fidelity. No portion of the Empire is exposed to sufferings and sacrifices equal to those which would inevitably fall upon this Province in the event of war with the United States. No probable combination of regular troops and militia would preserve our soil from invading armies; and no fortune which the most sanguine dare hope for, would prevent our most flourishing districts from being the battle field of the war. Our trade would be brought to a stand still, our industry would be paralysed, our richest farming lands devastated, our towns and villages destroyed, homes, happy in peace, would be rendered miserable by war, and all as the result of events for the production of which Canada would be in no wise accountable.

Your Excellency's advisers advert to these contingencies of our position, not to justify inaction, but to shew the unfairness of demands predicated upon alleged selfishness and sloth on the part of Canada. They simply point to consequences which it is criminal to conceal, and to dangers which it is folly to deny. So far as their own policy is concerned, they are content to rely upon a fair interpretation of the measures they have adopted, and others that are in contemplation. They have reminded your Excellency that the appropriation obtained from Parliament is as large as the state of the finances will allow it to be, and they have glanced at their plans for the purpose of proving the wisdom and justice of their course. Their anxiety is to do all that ought to be done, and to do this in a manner acceptable to the Province. They have a right to claim, therefore, that their exertions shall be considered in the temper and the light in which they have been undertaken, confident that time will vindicate the sagacity of their measures, and the loyalty of the Canadian people. They will be happy to learn that their efforts receive the approval of her Majesty's Government. Whether this hope be realized or not they are satisfied that they are acting in conformity with the wishes and interests of the people whose confidence elevated them to their present responsible position, and whose will they are bound in all cases to respect.

Executive Council Chamber, Quebec,
28th October, 1862.

Enclosure 2 in No. 5.

Encl. 2 in
No. 5

HEADS of a PLAN for the organization and increase of the ACTIVE FORCE of the MILITIA in CANADA.

1. The distinction between the Sedentary Militia and the active force to continue as at present established by law.

2. The active force (Infantry) in future to be organized in battalions of the following strength:—

Lieutenant Colonel	-	-	-	-	-	-	-	-	1
Majors	-	-	-	-	-	-	-	-	2
Adjutant	-	-	-	-	-	-	-	-	1
Quarter Master	-	-	-	-	-	-	-	-	1
Surgeon	-	-	-	-	-	-	-	-	1
Assistant Surgeon	-	-	-	-	-	-	-	-	1
Captains	-	-	-	-	-	-	-	-	10
Lieutenants	-	-	-	-	-	-	-	-	10
Ensigns	-	-	-	-	-	-	-	-	10

87

Serjeant Major	-	-	-	-	-	-	1
Quarter Master Serjeant	-	-	-	-	-	-	1
Hospital Serjeant	-	-	-	-	-	-	1
Drum Major	-	-	-	-	-	-	1
Serjeants	-	-	-	-	-	-	40
Corporals	-	-	-	-	-	-	40
Drummers	-	-	-	-	-	-	10
Privates	-	-	-	-	-	-	750
							<u>801</u>

All companies of the active force now in existence to be formed into battalions where this has not been already done, either by associating them with companies already existing within their respective districts or with new companies to be hereafter formed.

3. The battalions of the active force of infantry to be numbered in consecutive numbers through the entire Province as may be ordered by the Commander-in-Chief.

4. Each battalion of the active force of infantry shall be composed of men raised from a territorial division of the country corresponding with a regimental district of the Sedentary Militia. The quota of the active force to be supplied by each sedentary regimental district, to be fixed by the Commander-in-Chief, by militia general order. When more than one battalion of the active force of infantry shall be fixed as the quota of any sedentary regimental district, such regimental district shall be subdivided so that the subdivisions shall correspond with the number of the active battalion fixed as the quota of the regimental district. And the men of each active battalion shall be taken from one of such sub-divisions. The men shall in the first instance be raised by volunteering, but should any district not have completed its quota of men within a time to be limited it shall be competent to the commander-in-chief to order that the men should be raised by ballot.

5. All officers of the active force shall, in the first instance, receive provisional appointments, to be made absolute, if they shall, within one year from the date of their provisional appointment, pass a practical military examination before a board of military officers, to be appointed by the Commander-in-Chief.

It shall be the duty of this board to report specially to the Commander-in-Chief, the names of such officers as may have distinguished themselves by proficiency in military knowledge.

6. The uniform of the active force of infantry to be scarlet with blue facings and silver lace. All uniforms now in use to be worn as long as they are serviceable.

7. A brigade-major shall be appointed in each military district to attend to the organization and discipline of the active force in conformity with such orders as may from time to time be issued by the Commander-in-Chief.

8. Drill serjeants in proportion to the number of the men enrolled will be stationed at suitable places through the Province.

9. Drill sheds, armouries, and rifle ranges will be provided for the active force.

10. Rifles, bayonets, and accoutrements of the best construction have been supplied as a loan by the Imperial Government, and will be issued to the active force.

11. The distinction between Class A. and Class B. of the active force to be abolished. The basis of the system in future to be that the officers and men shall serve without pay, and that government shall provide the non-commissioned officers and men with arms, uniforms, and all other requisites for their organization and discipline free of charge.

12. There shall be paid immediately to each member of a corps organized in Class B. since May 1, 1861, who shall have provided himself with uniform to the satisfaction of the Commander-in-Chief the sum of six dollars, and a similar sum in 1863, if Parliament shall sanction the payment; but in future no money payment will be made to members of the active force on account of uniforms. The Government will supply the clothes to the men.

Individual cases of corps not coming within the above rule will be considered and dealt with according to the particular circumstances of each case.

	Annual Cost.	
19 Brigade Majors at \$600	-	\$11,400
124 Drill Serjeants at \$400	-	\$49,600
Appropriation for militia 1861	-	\$84,974
Deduct—		
Storekeepers	\$2,400	
Care of arms	\$5,000	
Drill of Active Force	\$21,644	
Musketry Instruction	\$2,000	
Additional amount for drill which would be saved by the proposed arrangement	\$15,000	
	\$46,044	
		\$8,930
Clothing* 50,000 at \$14	\$700,000	
Uniforms should last at least five years, one-fifth		\$140,000
62 Armouries at \$500	\$31,000	
62 Drill sheds at \$1,000	\$62,000	
	\$93,000	
Interest at 12 per cent		\$11,160
		<u>\$251,000</u>

* This includes tunic, trousers, chako, great coat, fur cap, at regulation prices, with a small addition to cover cost of transport.

No. 6.

No. 6.

COPY of a DESPATCH from His Grace the DUKE of NEWCASTLE, K.G., to
VISCOUNT MONCK.

(No. 197.)

Downing Street, December 20, 1862.

My Lord,

I HAVE the honour to acknowledge your Despatch of the 30th October,* forwarding • Page 42.
a Report of your Executive Council upon my Despatch of August 21st,† accompanied by †Page 40.
observations of your own upon that Report, and especially upon the plan which it contains
for the further organization of the Canadian Militia.

I greatly regret to find that that plan, while effecting some improvements in the present
system, will yet, as regards the systematic organization of the force of the colony for
defensive purposes, prove, as you observe, "completely illusory."

You also lay before me heads of another plan for the formation of a Militia Force of
50,000 men, which I concur with you in regarding as a measure of a more substantial
character, and more worthy of the great Province of Canada than that proposed by your
Executive Council. I shall not attempt to discuss the details of either of these schemes.
I will only express an earnest hope that the patriotic spirit which animates the volunteers
of Canada may be turned to the best account for the defence of the country, an object
which, I conceive, would be most effectually attained by forming them into battalions of
the Active Militia force within defined divisions of the Province, not indeed to the exclusion
of other volunteer associations, but with an eye in the first place to the completion of
that territorial organization, which is, as you justly term it, "the cardinal necessity of the
time."

I turn for a moment to the comments made by the Executive Council in their Report
upon my Despatch of 21st August last,‡ one or two of which call for some observation ‡Page 40.
from me.

The Report asserts that "in the opinion of your advisers no Government could exist
that would attempt to carry out my suggestions" for the raising of a force of at least
50,000 "partially trained" militia. A sufficient answer to such an opinion is contained
in the document with which you have furnished me, showing how the number mentioned
could be provided at a cost which, if spread over five years, would scarcely exceed in any
one year the small amount voted for militia purposes in the last session. Nor can I
believe that the Canadian people would condemn a Government which should effectually
provide for the defence of their country, even if the necessary expense should exceed the
sum of 50,000*l.* per annum.

The Report expresses great surprise at a suggestion made by me, that the charge for
the militia, or for a fixed portion of it, should be voted for a period of three or five years.
Such a measure, they say, "will never and ought never to be entertained by a people
inheriting the freedom guaranteed by British institutions." If there are any reasons in
its favour they think that they are "in every sense as applicable in England as in Canada;"
and they conclude with the sentiment, that "popular liberties are safe against military
despotism, wielded by a corrupt government, only when they (the people) have in their
hands the means of controlling the supplies required for the maintenance of a military
organization."

I beg you will point out to your ministers, in reply to these observations, some material
circumstances which have escaped their notice. The terms of my Despatch show that I
was well aware that the course in question, if adopted by the legislature, would be, to a
certain degree, a surrender of the strict constitutional rights of the representatives of the
people. It would probably, however, occur to them, that popular liberties would be in
little danger from a body of citizen soldiers; while there remained within the Province,
not only without exciting any such fears, but with the hearty approval of its people and
government, a force of regular troops whose number would be fixed at the discretion of
the Imperial Government, and whose cost would be defrayed by the Imperial Parliament.
Again, if the number of Imperial troops were made to depend, by agreement with the
Canadian Government, upon the number of militia maintained by the Province, there
would be nothing unreasonable in such an arrangement, and the Home Government might
fairly (I do not say would necessarily) require that the funds for the purpose should be
somewhat more permanently secured than by an annual vote. It is far from my wish (as
seems to be suggested by the Report) to diminish the controul of the Canadian Parliament
over their own affairs, but on the other hand the amount of exertion which England could
make with any advantage must depend very much on the manner in which that controul
is exercised; that is to say, on the disposition to protect the Colony which is shown by

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the Provincial Government and the people of Canada. It is difficult to see how, when my Despatch contemplates legislation on the subject of the militia by the Canadian and not the Imperial Parliament, the Executive Council can justify such grave apprehensions of an invasion of their liberties.

These considerations will show that the general doctrines referred to by the Report have little application to the present peculiar case of Canada, and little force against the suggestion of my Despatch, which, however, I have no desire to press upon the attention of your government, upon whom, and the parliament of Canada, must rest the responsibility of providing adequate means for meeting the efforts of the mother-country to secure the safety of the Province.

The Report dwells at length upon the fact, that the policy of the Empire in all its relations with Foreign Powers, upon which peace and war depend, is regulated by the Imperial Government and Parliament, over which Canada has no controul.

I agree with the Executive Council in regarding this circumstance as one of primary importance, as lying indeed at the very root of the relations between the mother-country and her colonies, with respect to military and naval defences. They cannot fail, however, to see that Canada, though liable, as they repeatedly point out, to be involved in Imperial wars in which she may have no immediate interest, has yet a manifest interest, under all circumstances, in contributing to maintain the power of the Empire of which she forms so important a part, and with which the maintenance of her own independence, and of her commanding position in the world, is so essentially connected. The main security against aggression which Canada enjoys as a portion of the British Empire, is the fact,—known to all the world,—that war with Canada means war with England, not in Canada only, but upon every sea, and upon the shores, wherever situated, of the aggressive Power itself. It does not therefore follow that this country can consent or afford to maintain an unlimited number of troops in Canada at her own cost, even in time of war, much less in time of peace. And it remains true, that the defence of Canadian territory must depend mainly upon the Canadian people itself.

Governor General Viscount Monck,
&c. &c. &c.

I have, &c.
(Signed) NEWCASTLE.

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CANADA (MILITIA BILLS).

RETURN

To an Address of the HOUSE OF LORDS,
dated 10th February 1863.

FOR

COPIES OF EXTRACTS OF CORRESPONDENCE between
HER MAJESTY'S GOVERNMENT and the
GOVERNOR GENERAL of CANADA in reference
to the MILITIA BILLS proposed and passed in
the Canadian Parliament.

(*The Earl of Carnarvon.*)

Ordered to be printed 17th February 1863.
